

UNIVERSITY OF PENNSYLVANIA

THE OWL AND THE NIGHTINGALE
SOURCES, DATE, AUTHOR

KATHRYN HUGANIR

A THESIS

IN ENGLISH

PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY

PHILADELPHIA

1931

THE OWL AND THE NIGHTINGALE

SOURCES, DATE, AUTHOR

A THESIS

IN ENGLISH

PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL OF THE
UNIVERSITY OF PENNSYLVANIA IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE DEGREE
OF DOCTOR OF PHILOSOPHY

KATHRYN HUGANIR

PHILADELPHIA

1931



To

CLARENCE GRIFFIN CHILD,

MY ESTEEMED TEACHER AND FRIEND

TABLE OF CONTENTS

	PAGE
I	
INTRODUCTION.....	5
II	
GENERAL FEATURES.....	8
III	
DATE.....	63
IV	
THE AUTHOR AND HIS PURPOSE.....	140
V	
CONCLUSIONS.....	183



Digitized by the Internet Archive
in 2026

THE OWL AND THE NIGHTINGALE

The Owl and the Nightingale has been characterized with justice as "by far the most distinguished among the productions of medieval literature before Chaucer."¹ To the student of today, the statement seems incontrovertible—a commonplace. The merits of the poem, whether judged from the relative or absolute standpoint, its appeal through certain intrinsic qualities which one feels to be inherent in the English poetic tradition to the present day, seem obvious enough. Yet though a critical text, that of Stratmann, appeared in 1868, Wells, in the first of two important modern editions, dating less than thirty years ago, could speak of the poem as having attracted little attention—and with substantial truth. This comparative neglect was perhaps apparent rather than real. Possibly it is to be explained as due to the baffling nature of the problems the poem presents, the failure of students to arrive at conclusions that could be presented with confidence. At all events, since the more recent editions of Wells,² of Gadow,³ and of Atkins,⁴ with the incidental clarification of these problems, a critical literature of considerable extent and indubitable value has developed upon the various phases of the poem.

In the following study I am not unmindful that the field has been worked over by scholars of eminence, and, in spite of the attraction which the poem exerts and the challenge of its historic importance, I might have been deterred from what might seem a presumptuous effort, were it not that the statement made by Breier twenty years ago⁵ remains true that "there lies a veil over the person of the poet" and "the sources and models of his work still await investigation." To assert that no advance has been made during these twenty years would, of course, be untrue. Old prepossessions and mistaken assumptions have been removed

¹ Breier, W., *Eule und Nachtigall—Studien zur englischen Philologie*, XXXIX-XL, 1.

² Wells, J. E., *The Owl and the Nightingale*, 1907.

³ Gadow, W., *Das Mittelenglische Streitgedicht Eule u. Nachtigall*, Berlin Dissertation, 1907, *Palaestra*, LXV, 1909.

⁴ Atkins, J. W. H., *The Owl and the Nightingale*, 1922.

⁵ Breier, W., *Op. Cit.*, 1.

and main issues brought to the fore. Speculation and conjecture, while not arriving at assured conclusions, have stimulated further possibly fruitful conjecture and concentrated attention on evidence which properly interpreted promises results of value. Only as fortified by the same eager interest and in the hope of aiding, if ever so little, a final solution, and certainly with diffidence and extreme hesitation, I have undertaken this study.

Baffling the poem certainly is, but not in such a way as to lead one to hopeless surrender. It is not that one persists realizing the extreme importance of conclusions dependent upon the satisfactory solution of various questions—rather that the available evidence is of such a nature that one feels that a little more searching, a fortunate chance, a moment's enlightened perception, might lead to success. Already in regard to various points, it has been proved possible to arrive at acceptable general conclusions, a point which Wells admirably stresses in his Introduction, but at the same time not yet to those specific, really vital conclusions which are essential. Needless to say, customary critical methods, the criteria usually employed, the full sum of accrued knowledge, have been applied with studious skill and patience. The external evidence has afforded only the roughest approximation as to date, though, of course, such an approximation is of extreme value in directing further effort. Nothing is known as regards the identity of the poet either in the MSS., or, as might be expected, through contemporaneous reference; it is rare good fortune that special circumstances bring it about that a Marie de France should be mentioned by a Denis de Pyramus or a Walter Map by a Gerald, but we could hardly hope that the poet of the *Owl* would call together a whole town to hear his work and feast it besides, as did Gerald when he had finished his *Topography of Ireland*. Internal evidence of the routine sort affords us no aid at all. Linguistic analysis gives no decisive aid as regards date, and as to place, merely confirms what is known otherwise, that the poet was of the South. Quite otherwise, however, is it as regards various references and allusions within the poem. These are our main, our only hope. Fortunately, we need feel no fear that these may be deceptive. There is no indication, indeed quite the contrary, that the poem has undergone change through rescension or local alteration since it left the hand of the author.

My main purpose is to try to determine more precisely the date of the poem and to suggest an identification of the poet. Other matters are treated incidentally, not because I feel that in every case as in some, I have new and, I hope, helpful material to offer, but because there is some value in a frank expression of personal opinion on the part of one who has studied a work seriously, if only to awaken interest, direct attention, and invite further discussion. This is true of the following section, in which, in addition to a review of general details to prove them consonant with the assumption of a date in the twelfth century, there is also substantial proof offered that, to a far greater extent than has hitherto been shown, the sources of the poem are from books rather than directly from life. The third section deals specifically with the date of the poem, the fourth with the identity of the author, and the fifth with my general conclusions.

The citations from the poem are based upon a careful examination of the original MSS. with due reference to the editions of Stratmann, Wells, Gadow, and Atkins.

In the course of these investigations, I have incurred many obligations: it is my pleasure to acknowledge my indebtedness to the Faculty of the University of Pennsylvania, especially to Professor Clarence Griffin Child, at whose suggestion the work was begun and upon whose time and broad learning, I have drawn heavily; to Professor Cornelius Weygandt whose advice regarding natural history and bird lore has proved invaluable; to Professor F. E. Schelling and Professor P. V. D. Shelly for their interest and encouragement.

Further, I wish to take this opportunity to thank the librarians of the University of Pennsylvania Library for their kindness in placing at my disposal such books and documents as were needful; also the Superintendent of the British Museum and the librarians of the Bodleian Library, Oxford, for their assistance in exhibiting manuscripts and other material pertinent to my investigations; the librarians of Columbia University Library and the J. P. Morgan Library for their generous aid. Also I wish to express my appreciation to Miss Ruth Firor of Geneva College for her assistance in reading proof.

II

GENERAL FEATURES

As just noted, this section is devoted to two objects:—a summary review of the general features of the poem to show that they offer no contradiction to the assumption of a 12th century date, and a somewhat detailed examination of the substance of the poem, which may aid toward a determination of its sources and background in learned and literary tradition. In certain ways these two objects are independent of each other; in others, they are inter-related and mutually contributory.

In the first paragraph of his last article¹ on the poem, Atkins says:

One of the most interesting features of *The Owl and the Nightingale* is the way in which it reflects the intellectual activities of the age. Written in all probability in the opening years of the thirteenth century, it illustrates in a remarkable fashion most of the literary interests of the time—the contemporary delight in fables, natural history and allegory, the fondness for such things as debates and proverbs, the close links that existed between law and literature, above all, the growing interest felt in the new love poetry of France—and traces of all these things are to be found in the poem.

This leading sentence of an editor and devoted student of the poem may serve also as a text for this chapter. It emphasizes the fact—one concerning which all commentators are in agreement—that the poem reflects in a singularly spirited and charming way, the life, thought, literary interests and influences of its day, admittedly, of course, as subject to the poet's temperament, judgment, and chosen theme. But it is necessary in express terms to enter one all-important exception. In not one of the particulars in Atkins' catalogue, designed as it is to be casually suggestive and illustrative only, in no single feature of form or substance of the poem is there any evidence discernible that commits it to the early years of the thirteenth century. On the contrary an earlier

¹ "Further Notes on 'The Owl and the Nightingale,'" *Aberystwyth Studies*, IV, 49.

date rather is suggested, though, truly, in no conclusive fashion. Any poem, naturally, will be quite likely to show the influence of a recent or perhaps somewhat remote past. But there is no demonstrable association whatsoever with the early years of the 13th century and one must not permit oneself to be swayed, all unconsciously, by that purely artificial and arbitrary time-index, seemingly so monumental and significant, the century year. It may well be that if all the features of a poem accord with an earlier date, the probability may rather favor the earlier. Certainly, in the present case, the various features of the poem as a complex suggest a close and vital relation of contemporaneity with the closing decades of the 12th century rather than the opening decades of the 13th. At all events, for one who holds to a 13th century date, it is quite immaterial whether all the features of the poem suit perfectly a comparatively recent past. But for one who is arguing for a 12th century date, to show that they fit in with the earlier date is essential.

For this reason, the general features of the poem are now reviewed in their relation to date before passing on, in the third section, to specific evidence proving its 12th century provenience, and, with some precision, its approximate date. In doing this, it will not be necessary to summarize in full detail facts that are matters of general consent, but merely to indicate their relation to the question of date. Incidentally when possible, new material is presented, and points advanced that seem significant.

The poem, in the first place, is a debate. It is so styled in the Jesus MS., "*Incipit altercatio inter filomenam et Bubonem.*" Moreover, the poet who is supposed to overhear and report the birds' disputation calls it a *plait*, a *plaiding* (vv. 5, 12, 472, 1737); the birds agree to "plaidi mid foze & mid rizte" (v. 184) and to refer the matter to a judge (vv. 187-214). The terms imply not a debate of informal kind, but of a mock-serious sort, a formal pleading with the disputants observing, or pretending to observe, and on occasion, appealing to formal rule and custom. The genetic history of the debate in its many varieties as widely distributed in world-literature over centuries and in many countries, in forms popular, learned, polite, need not be considered here. Our concern is with the exemplars from which the poem directly

drew. That the poem might have drawn a part of its raciness, personal abuse and shrewd strokes at the conscious weakness of an adversary, from the informal flyting of the tavern, village green, or market place, one would like to believe, but that is not susceptible of proof. One must look in one of two directions, either to Latin debates, derived as a polemic form from the dialogue, used as a set exercise in the schools, and as a literary mode, serious or humorous or fanciful (possibly as a remote alternative, French poems in imitation of them) or, on the other hand, to the Provençal or French *tenson* as it appears in a number of southern and northern variants. No one will be likely to dispute Wells's decision ruling out the latter, or his considered decision that French imitations of the Latin debate should also be dismissed as apparently dating as a class later than the *Owl* (though he dates it about 1220), with the reservation that the possibility of earlier poems of like kind is not precluded. Certainly, as appears in his detailed study, no decisive criteria link the *Owl* with Romance debates; such elements of likeness as do appear are mere superficial, generic similarities.²

This leaves the Latin debate as the model which it is practically certain the poet used. It may, indeed, be stated with emphasis that, with due allowance for the poet's independence and originality (involving, however, nothing that contradicts the assumption), the poem in every way conforms to the pattern set by the Latin debate as practised by grave cleric, Goliardic satirist, wandering scholar, on widely contrasted themes weighty or trivial, in intention serious or merely amusing, varying in literary quality from a pedestrian or elegant use of traditional rhetoric to a high degree of intellectual cleverness or now and then to the grace and charm of true poetry overmastering the constraints of a mode intrinsically artificial. The essential point for our purpose is that the Latin debate was a well-established mode long before the 12th century—the beginnings of the special tradition we are interested in go back to Charlemagne's time—and scholars generally agree, so far as extant literature permits judgment, that this form in the 12th century reached its full development as a

² Wells, J. E., *Manual*: esp. also the "Introduction" to his edition.

special mode and found application to themes not primarily clerical.³

One may also safely assume, again with full recognition of the poet's own exceptional gifts, that the liveliness and sprightliness of the piece, the ability to keep in view and enforce serious aspects of certain themes he treats, while touching them seemingly with lightness and investing them with captivating humor, he could well have derived from the Latin debate without the necessity of assuming French exemplars. Any offhand assumption that, in view of the state of English literature at the time, the *esprit* and *verve* of the poem as good as posit a French original, however invisible, really betrays elementary knowledge or uncritical judgment. That the poem might have had a French model is perfectly possible. That it need not have had any such model is as perfectly certain. This point is further argued in the next section of this study. A point that has relation to it may properly be touched upon here.

It is interesting to note that while both Latin debates and French poems on Latin pattern appear in some numbers in the 13th century, the form did not, so far as extant literature permits judgment, find frequent imitation in English as a mode worth trying. We know only of the *Thrush and the Nightingale*, dating about 1250, directly patterned upon our poem, and the alleged English original by "Banastre"⁴ of that curious half-debate, half-parliament, the *Geste de Blanche flour e de Florence* which its author says he imitated. For other true debates in English and further experiments with the form—several patterned directly or by derivation from our poem—one must look down to the close of the 14th century and to the 15th and 16th centuries. This directly suggests the question how a form like this originates and maintains itself. The manner of its origination as an effective dramatic instrument for polemic or satiric or homilectic use is apparent enough. But such uses will depend upon occasion. The

³ See in general H. Walther, *Das Streitgedicht in der lateinischen Literatur des Mittelalters*; and on the debate in the 12th century, J. H. Hanford, *The Medieval Debate Between Wine and Water*, P. M. L. A. XXVIII, 315.

⁴ Vising, J., *Anglo-Norman Language and Literature*, 64.

form will not sustain itself in the sense that it will call for imitation independent of occasion, until some chance—as for instance a special example—sets it so far free of occasion as to make plain the potential merits of the form for dealing in a delightful way with its subject. Here it is well to remember that the debate proper is never characteristically popular, or a form that thus early won its way into polite or courtly recognition. We may recall here the words of Walther:

Fragen wir uns zum Schluss, welche Absicht die Verfasser mit diesen Dichtungen verfolgten, so lassen sich drei Gesichtspunkte konstatieren, denen sie folgten: Belehrung, Satire, und Unterhaltung. Bei den meisten dieser Erzeugnisse der Schulpoesie des Mittelalters können wir uns nicht recht erklären, dass eine Zeit an ihnen so viel Gefallen fand, wie die grosse Anzahl von Hss. erkennen lässt. Der Wert der wenigen Perlen unter dieser Fülle des ästhetisch Wertlosen beruht für unseren Geschmack nicht in der Einkleidung in die Streitgedichtform, sondern in der hübschen Ausführung im einzelnen z.B. Phyllis und Flora u.a. Wir müssen uns indessen vergegenwärtigen, für was für in Publikum diese Gedichte berechnet waren: es sind fast durchweg Dichtungen Gelehrter für Gelehrte: und wenn ich in einem Abschnitt von Teil II "Volkstümliche Streitgedichte" behandelte, so bewahrt allein schon die Tatsache, dass sie in lateinischer Sprache geschrieben sind, vor dem Irrtum dass sie für das 'Volk' gedichtet seien; es sind vielmehr nur volkstümliche Stoffe in dieser gelehrten Form behandelt worden.⁵

If now one appreciates in the use of such form the hindrances to its free development and transfer to a different environment, how explain a poem like the *Owl*—whether 12th or 13th century? One does certainly have to assume a poet of exceptional gifts, though by no means taking refuge in "apparitional genius." It is to be remembered in the case of a form like the debate, its continuous existence is not necessarily dependent upon a series of examples derived traditionally from predecessors. The form can continuously be originated under conditions like those that originally produced it—as in this special connection, Walther says:

Wo in den anderen Literaturen Berührungspunkte mit den lateinischen Streitgedichten erscheinen, da dürfte wohl anzunehmen sein, dass die

⁵ Walther, H., *Op. Cit.*, 188.

lateinische Literatur die gebende gewesen ist oder dass die gleichen Grundbedingungen getrennt zu ähnlichen Äusserungen geführt haben.

In point of fact, it is quite possible that both may be in operation. The very fact that the poet of the *Owl* works with entire freedom from constraint, and yet works to a norm that he observes without permitting it to fetter him, points to this. One may conceive that the conditions under which the poem took its rise were something like this. The poet, while earning his title of *Magister* underwent the discipline of school debates as a part of his training in canon law, the study of which we know to have been organized at this time from the fact that Theobald of Canterbury had in 1149 introduced Vaccarius into Oxford to profess canon law. That debates as school exercises did not limit themselves to serious themes, or to entire seriousness in the treatment of their theses or set orations, we have interesting proof in the description by Fitz-Stephen of the rhetorical exhibitions and disputations of London school-boys on festival days. Writing in 1170, he says:

In Londonia tres principales ecclesiae scholas celebres habent de privilegio et antiqua dignitate. Plerumque tamen favore personali alicujus notorum secundum philosophiam plures ibi scholae admittuntur. Diebus festis ad ecclesias festivas magistri conventus celebrant. disputant scholares, quidem demonstrative, dialectice alii; hi rotant enthymemata, hi perfectis melius utuntur syllogismis. Quidam ad ostentationem exercentur disputatione, quae est inter colluctantes; alii ad veritatem, ea quae est perfectionis gratia. Sophistae simulatores agmine et inundatione verborum beati judicantur; alii paralogizant. Oratores aliqui quandoque orationibus rhetoricis aliquid dicunt apposite ad persuadendum, curantes artis praecepta servare, et contingentibus nihil omittere. Pueri diversarum scholarum versibus inter se conrixantur; aut de principiis artis grammaticae vel regulis praeteritorum vel supinorum, contendunt. Sunt alii qui in epigrammatibus, rhythmis et metris, utuntur vetere illa triviali dicacitate; licentia Fescennina socios suppressis nominibus liberius lacerant; loedorias jaculantur et scommata; salibus Socraticis sociorum, vel forte majorum vitia tangunt; vel mordacius dente rodunt Theo-“nino” audacibus dithyrambis. Auditores,

‘multum ridere parati,

Ingeminant tremulos naso crispante cachinnos.’⁶

⁶ Fitz-Stephen, W., *Life of Becket*, Prelude, Rolls Series III, 4 ff.

Quite apart from the possibility of the use of light themes in debates set as exercises where formal skill and quickness of wit were more important than subject, we can assume with certainty that lively youths (and that the poet was lively we have evidence) would take the greatest delight in parodying their school exercises or in imitating them fancifully for their own amusement. It is not impossible, indeed, that even as a boy's exercise in the school of Alcuin gave *Conflictus veris et hiemis*, so the *Owl* may have been a youthful effort of the poet which he exhumed from his chest and amplified, embellished, and embroidered for a special purpose. One can almost convince oneself of this from an occasional seeming obscurity, omission, interpolation, repetition in the poem, though one would hesitate to try to prove it. In brief, to sum up, one may assume that the poet set himself to write a debate; he is familiar with its tradition, the form appeals to his humor and will appeal to those he is addressing. But the form puts him under no constraints of imitation. Because of his training, perhaps because of former like experiments, his debate shall make solemn pretense in delightful fashion of being, and shall in effect be, a formal pleading to reach final adjudication by reference to an unusually competent judge—himself. With an inimitable gift for blending seriousness and comedy, he presents a series of comments upon contemporaneous themes, through protagonists drawn from a form of literature widely current and already given polite recognition. These characters, moreover, are eminently suitable for his purpose as being long familiarized as types of precisely the desired sort. And from that literature, furthermore, he draws also, as may appear, no little of his incidental material. One leading question will at once suggest itself here—why did he choose to use English? That question may better be taken up later.

The fact that the poem is a true debate of the duel type, expressly a formal pleading, leads next to a consideration of the two disputants. Persons, animals, things, abstractions, presented in their natural relations or as types, or symbolically, or allegorically, may serve as opponents. In the present case, both are birds—the only existing example of such use of birds, Wells notes in his valuable comparison of the *Owl* with other debates (except

naturally those modeled upon the poem or where two birds are momentarily opposed in bird parliaments). The use of birds as personages as derived from folk-tales, especially the beast-epic, needs only incidental reference here. Here their use is directly due to the fable. In a way and to a degree not immediately apparent, the poem is animated by the spirit of the fable—to a far greater extent than the familiar contacts of the debate with fable literature. The happy instinct of the poet is comparable with that of Chaucer in amplifying the fable in the *Nun's Priest's Tale*. The two birds are humanized, are made to talk, act, display human reason and sensibility, while at the same time they remain birds, retain their personalities, their natural characteristics as birds. Not only is there this indebtedness to the fable in the characters, in the spirit and atmosphere, but also the fable is directly drawn upon for major features and minor incidental material as will appear later. Here assuredly there is nothing that significantly indicates a 13th century date—rather there is predicated a vital relation with the 12th century. It was in the 12th century as Jacobs, Mall, and others⁷ have shown that the fable became popularized and poetized in Latin and the vernaculars, notably in England. It is not necessary here to attempt to review the complex problem of the exact extent of England's participation—in the making over of previous collections, in the assembling, the rephrasing, the moralizing, the poetizing of new collections. The essential point is that there was a lively interest in a special vogue of the fable—certainly in the latter half of the century. One Anglo-Latin *Romulus* is extant—there were almost certainly others—and the versified fables of Walter of England, chaplain of Henry II, whom we would like to believe the poet knew. We have the *Ysopet* of the gifted Marie de France, and before it the English collection, unhappily lost, ascribed to King Alfred, which Marie names as her source—the controversies over Alfred are not of moment here. John of Salisbury and Walter Map introduced fables into their works, Alexander Neckam and Odo of Cheriton bridge the century mark. John of Sheppey and

⁷ Cf. Joseph Jacobs, *The Fables of Aesop*, 178; E. Mall, *Zs. für romanischen Philologie*, IX, 161–203.

Nicholas Bozon follow on. It is curious that while the popularity of fables in Latin and French continues, a few only appear in English in the 13th and 14th centuries, though current to some extent orally. The first "collection," if it may be called that, now extant in English, is that formed by Henryson's wholly charming versions in the 15th century.

If it is recalled that, as Wells pointed out, the use of two lower animals as contestants in a debate appears first in the *Owl* and that up to the middle of the 13th century in extant Latin, Provençal, and French, never more than one of the two is bird or beast, it seems safe to assume that the fable was directly responsible for the poet's clever idea, in conjunction with their traditional use as emblems in rhetorical and poetic similitudes. It may be interjected here that the use of two birds in a debate can hardly be ascribed to the beast-parliament, which is of different nature, has a different purpose, and requires a different handling from the debate. In the parliament as appearing in the beast epic and fable, a number of individuals, representative in function, meet to argue a question. The bird-parliament in particular, which was to have a notable vogue later in literature, had, to be sure, already appeared in a work which the poet very probably knew, Marie's *Parlemens des Oiseax por faire Roi* (itself based upon a fable) but this does not seem as likely to have suggested the idea as the fable. It may be remembered in passing that the *Owl* closes with an informal and riotous congregation of the small birds, which is brought to order by the wren as moderator, which feature also is plainly drawn from fable tradition. It is curious and most interesting how parliament and debate are mingled in the Anglo-Norman 13th century *Blancheflour e Florence*⁸ wherein several birds, *l'epervier*, *le faucon*, *l'alouette*, *le papegai*, *le char-donneret*, *le loriot*, *le mauvis*, *l'etourneau*, *le rossignol*, contest the respective merits of clerk and knight as lovers; the parrot and the nightingale contend last—it is the nightingale who wins.

We may now turn next to two birds chosen by the poet as his disputants. The fact that in the case of each the poet has made

⁸ Vising, J., *Op. Cit.*, 64; Cf. P., Meyer, *Romania*, XXXVII, 224 ff.; C Oulment, *Les débats du clerc et du chevalier*, 15, as cited by Vising.

use of characteristics and functions long traditional in pseudo-science, allegoric similitudes, rhetorical and poetic reference, has been amply demonstrated by previous commentators. The fact that the poet makes them seem very real indeed does not mean in the least that they are drawn from nature. Examine the poem for unquestionable naturalistic detail, derived from personal observation, and one will find himself at a loss. One may easily convince himself that the poet had seen and delightfully recalls the morose owl sitting in her ivy-grown stock and the nightingale on her blossoming spray, but one could not prove it, so possible is it (very plainly in the case of the nightingale) that he is making fresh and vital images of old accepted stock properties. This applies, in fact, to the whole poem, reluctant as one may be to admit it, even though the admission is a sort of left-handed compliment to the poet's genius. A review of the poem with this fact in mind leads to some amusing reflections on the plight of the literary critic in coping with questions of natural history. The famous crux in this connection in the *Owl* is the verse (v. 816) describing how the fox among the various sleights in his sack, "kan hongī bi þe boze" to escape the hounds. Kenyon⁹ suggested that this may refer to well-known tricks of the fox (of leaping to a fence, a reclining tree, or low limb). This Atkins dismissed as "unconvincing, for the simple reason that the fox cannot climb trees." The actual fact is that they can and do (and dogs also, but less commonly). A recent photograph shows one high in a tree and a current moving picture (January 2, 1931) of a fox hunt in Greensboro, N. C., shows the fox climbing fast and high on a tall tree and actually hanging "by the bough" when he is retrieved by members of the hunt. Still another appears in the photogravure section of the *New York Times* of January 18, 1931. Grey foxes in America, I am informed, habitually climb trees; red foxes (like that in the *Owl*) upon occasion leap to places or branches of great height and hang by the boughs of trees. Perhaps medieval England had more abundant and thicker woodland and the modern British fox has lost the habit. That they once

⁹ Kenyon, J. S., "Notes on the Owl and the Nightingale," *Journal of English and Germanic Philology*, XII, 572.

did make a habit of it in medieval England and that the fact was familiarly known is clearly proved through the depiction of a fox which has taken to a tree while the hounds bay impotently below which representation appears carved on a misericord in Gloucester as noted by Bruce Dickens.¹⁰ Here in passing it may be noted that, through concentrating on the fox, one takes the cat for granted as vague, abstract cat whereas the picturesque truth of the matter is that the poet's cat is a wildcat. Another example in the poem is the assumed error of the poet in speaking of crows harassing hawks "bi the mersche" (v. 304). Coulton, believing that ravens, not carrion crows, attack hawks thought that the poet perhaps did actually observe this and make a mistake. But, however true of England (where, by the way, there are other crows than carrion crows), crows certainly heckle hawks, on occasion, in America. But these are matters in regard to which the student of literature had best be humble and undogmatic.

To return to the birds of the poem, Atkins, in his illuminating discussion of them,¹¹ has pointed out that the owl is portrayed as combining the characteristics that pertain, in contemporary descriptions to different species. But clearly we have to do here with a generic owl, and no bird of the poet's actual observation. Using tradition plus imagination, he has conjured up a pair of birds in a situation highly dramatic, seemingly realistic—in short, he has done what every great artist has done, "taken his own wherever he has found it," moulded it, placed his own seal upon it, and achieved a result that may truly be received as something veritable, graphic, fresh, original.

Taking the birds individually, the nightingale in different lines of tradition may appear as the herald of spring (displacing the cuckoo in part), as the minstrel of love, and as chorister of divine praise. All these appear in the poem.¹² These surely belong to Christian tradition and were well established before the end of the 12th century. The third appears as early as Alcuin's *De*

¹⁰ Dickens, Bruce, *T. L. S.*, April 7, 1927, 250 ff.

¹¹ Atkins, J. W. H., Edition of *The Owl and the Nightingale*, lxviii.

¹² Atkins, J. W. H., *ibid.*

Luscinia. All three traditions can be shown to be current in the 12th century. It seems curious, one may add, that the nightingale did not find more frequent admission into the bestiary—she is moralized at all events in Hugo de St Victor's *De Bestiis et aliis rebus*.

The owl likewise is depicted in complete accord with tradition—as a bird of solitude and lamentation, unclean, and a prophet of evil.¹³ As a type or symbol, the owl may signify the Jews, who refused Christ's offer of deliverance, saying, "We have no king but Caesar"; or the monk—in Hugo's *De Bestiis*, the Christian mystic, withdrawn from the world, fleeing the light of worldly fame—also other and ignoble rôles are assigned to the owl in various fables. One of these similitudes has a bearing upon the identity of the author and will appear later. The representation of the owl, like that of the nightingale, is fully in accord with current 12th century tradition.

We have, however, something more to do than consider the individual traditions of the two birds—we have also to explain the fact that the poet pictures them in opposition to each other. However natural such an opposition may seem, it is necessary to explain it. Hinckley, after touching on the point in his first article, has gathered in the third section of his second article,¹⁴ material from far and near both in place and time, material of real interest, but of varying degrees of evidential value. He chiefly lays stress upon modern German proverbs as establishing the likelihood of a proverbial tradition that might reach back to the time of the poem. Much else is too late or too early or too distant in time to be of much force. What is needed is a specific source or proof of a current tradition in clerkly literature readily available at the time. Two passages cited, one directly significant, the other pertinent, both involve a problem in connection with the date of the poem. The first of these (incidentally dismissing with regret a line from the sixth eclogue of Calpurnius Siculus—"vocalem superet si dirus aedona bubo") is from Walter Map's *Epistola ad Rufinum*,

¹³ It is curious that the references in the Bible have not been recalled in this connection—Lev., XI:16; Deut., XIV:15, 16, 17; Isa., XXXIV:11, 13, 15; Psal., CII:6; Job, XXX:29; Isa., XIII:21; Jer., L:39, XLIII:20; Micah, I:8.

¹⁴ Hinckley, H. B., *Modern Philology*, XVII, 73; *P. M. L. A.* XLIV, 343.

"Loqui prohibeor et tacere non possum. Grues odi et uocem ulule, bubonem, et aves ceteras que lutose hiemis grauitatem luctuose preululant. Lu[s]ciniam amo et merulam que leticiam aure lenis concentu placido preloquantur, et potissimum philomenam, que optate tempus iocunditatis tota deliciarum."¹⁵

There could hardly be a more felicitous parallel than this with the nightingale's charge that the owl "singist a-winter wola-wo"—differences are negligible—and her own claim of caroling the sweetness of spring. But in which direction ran the indebtedness? We may dismiss a couplet from the *De Laudibus Divinae Sapientiae* of Alexander Neckam,¹⁶ also a contemporary of the *Owl* poet,

Hupupa, strix, bubo, tenebras, lucinia lucem
Appetit, haec modulis sedula mulcet aves.

Mr. Hinckley has mistaken the meaning of the passage. It does not afford a parallel to the situation in the *Owl* to which he refers (vv. 1717) in which it is said of the wren that he has a good voice. The *haec* of the second verse has reference to the *lucinia* (a feminine noun) just spoken of, not to the *regulus* (a masculine noun) or kinglet. The two verses referred to by Mr. Hinckley do not afford a parallel to vv. 1717 of the *Owl*; however, there is an analogy between vv. 1717 ff. of the *Owl* and vv. 889 ff. of *De Laudibus Divinae Sapientiae*, Dist. II, where we find the wren cozening his way into the kingship of the bird realm, attempting to still the birds' shrill clamors in the assembly in much the same manner as the wren of the *Owl* does without the talisman of the "king's peace" to give force to his command.

Regulus exiguo contentus corpore regis
Nobile cor prodit mobilitate soni,
Affixumque veru corpus quod decoquit ignis
Dum se circumfert, non egit artis ope.
Gloria terrigenas superos animalia fertur
Tangere, quae quondam sollicitavit aves
Convenere, sibi praeponi curia regem

¹⁵ Map, Walter, *De Nugis Curialium*, ed. James, 143 ff.

¹⁶ Ed. Thomas Wright, R. S., Dist. II, vv. 901 ff.

Postulat, at vario turba favore strepit.
Imperat acciri volucrem concordia mitis,
Quae crepitans immo tempore linquit aquas
Paretur, fieri crepitando silentia jussit,
Nam caret officio lingula curta suo.¹⁷

Neckam pilfered everywhere and his distich goes back unmistakably to a passage not yet quoted in this connection—in the *Originum seu Etymologiarum Libri XX* of the famous Isidore, Archbishop of Seville, contemporary of Gregory the Great, whose thesaurus of universal knowledge is one of the earliest and most revered encyclopaedic works of the Middle Ages, a work readily available in any cathedral or monastic library. It runs as follows:

Luscinia avis inde nomen sumpsit, quia cantu suo significare solet diei surgentis exortum, quasi lucinia. Eadem et acredula, de qua Cicero in Prognosticis (frag. 6)

‘Et matutinos exercet acredula cantus.’

Vlula avis από τοῦ ὀλοῦξεν, id est a planctu et luctu, nominata; cum enim clamat aut fletum imitatur aut gemitum. Vnde et apud augures si lamentetur tristitiam, tacens ostendere fertur prosperitatem. Bubo a sono vocis conpositum nomen habet, avis feralis, onusta quidem plumis, sed gravi semper detenta pigritia: in sepulcris die noctuque versatur, et semper comorans in cavernis. De qua Ovidius (Met. 5.549)

‘Foedaque fit volucris venturi nuntia luctus,
ignavus bubo dirum mortalibus omen.’

Denique apud augures malum portendere fertur: nam cum in urbe visa fuerit solitudinem significare dicunt. Noctua dicitur pro eo quod nocte circumvolat et per diem non possit videre; nam exorto splendore solis, visus illius hebetatur. Hanc autem insula Cretensis non habet; et si veniat aliunde statim moritur. Noctua autem non est bubo; nam bubo maior est. Nycticorax ipsa est noctua, quia noctem amat. Est enim avis lucifuga, et solem videre non patitur. Strix nocturna avis, habens nomen de sono vocis; quando enim clamat stridet. De qua Lucanus (6, 689):

‘Quod trepidus bubo, quod strix nocturna queruntur.’

Haec avis vulgo amma dicitur, ab amando parvulos; unde et lac praeberet fertur nascentibus.¹⁸

¹⁷ Neckam, Alexander, *De Laudibus Divinae Sapientiae*, ed. Thos. Wright, R. S. Dist. II, vv. 889 ff.

¹⁸ Isidori *Etymologiarum Liber*, XII, vii, 37–42 incl., ed. W. M. Lindsay.

This passage is plainly Neckam's source. Its value consists not in necessarily being a direct source of the poet of the *Owl*, but in its being perhaps the earliest example of the two birds in their emblematic function brought together in contrast in a rhetorical similitude, and the most probable direct source of a tradition. *Elegia de Philomela*, ascribed to Albus Ovidius Iuventinus,¹⁹ affords another striking instance of the same tradition. After praising the nightingale (6.388)

Dulcis amica veni, noctis solatia praestans

the poet takes up the "voices of the other birds and quadrupeds" in comparison: the owl (6.395)

Bubulat horrendum ferali carmine bubo
Humano generi tristia fata ferens.
Strix nocturna sonans, et uespertilio stridunt
Noctua lucifuga cucubat in tenebris.

As regards the passage in Walter Map, we cannot know whether it shares a community of tradition with the *Owl* or whether, as has been said above, one borrowed from the other, and if so, which?

The points thus indicated do not exhaust the indebtedness of the poem to the fable. As will be remembered, it makes direct use, incidentally, of two notable fables. One is the story of the owl's (*alias* buzzard's) egg dropped by agreement or by stealth into the falcon's nest, and the prompt judgment executed upon the filthy big-headed nestling hatched therefrom. No version exactly corresponding to that in the poem has been found, though its elements appear in differing distributions in a number of extant versions earlier and later.²⁰ The variations involved are for the most part trivial—one egg or several, placed by stealth or accepted as a friendly accommodation, the falcon flies away for food or does not, her young point out the filthy culprit with the big head, or she knows it without being told, her young are refused their food or not, and so on. The important point is that the

¹⁹ Ed. J. C. Wernsdorf, *Poetae latini minores*.

²⁰ Atkins, J. W. H., *Op. Cit.*, lxiv.

nightingale tells this tale that men say in as malicious a fashion as possible. It is not necessary to suppose the poet followed any particular source. He may have borrowed (from the "Cuckoo and the Hedgesparrow") or even have invented the deposit by stealth of the egg in the falcon's nest—Odo of Cheriton's substitution of buzzard for owl, followed by John of Sheppey, does not necessarily argue for a buzzard as original, even though Odo says this stealing of other birds' nests is a trick of buzzards (further it is to be noted that since owls are poor architects, they commonly lay their eggs in crevices, heaps of straw, or even in abandoned nests of other birds). The poet does use the climactic scene where the offender is pointed out and forthwith ejected. He does not moralize abstractly about the *jus naturae*—his moral is concrete—a creature of low origin will show he comes from addle-egg, the apple though it trundle far from its tree betrays whence it comes. The last came, of course, from Marie whom he certainly knew.

It is curious how fabulous beast-lore passes into encyclopaedic natural history and shapes perhaps again into fable from Pliny on into the Middle Ages. Isidore does not tell this fable, but his comments on the falcon show grotesque parallels with it. The falcon, he says, is cruel to its young, does not bring them food, beats them with her wings and throws them out of the nest.²¹

Fertur autem accipitres circa pullos suos inpios esse; nam dum viderint eos posse tentare volatus, nullas eis praebeant escas; sed verberant pinnis et a nido praecipitant, atque a tenero compellunt ad praedam, ne forte adulti pigrescant.

The poet's probably younger contemporary, Odo, has a fable which may be original and may even perhaps have been suggested by the poem.²² Atkins has cited it in illustration of the nightingale as chorister of the bliss of heaven, but has not noted this connection. Here the nightingale is pictured as exemplifying the austere devotion of religious folk, singing God's praises in the dark among the hard boughs—while the hoopoe, in snug com-

²¹ Isidori *Etymologiarum*, Liber XII, vii, 56.

²² Hervieux, L., *Les fabulistes latins*, IV, 213.

fort (paralleling the owl's) when visited is found to live in filth. The hoopoe, it seems, represents the adulterous woman in her foul luxury. The hoopoe may have been chosen for her "dressy" appearance—but also she is classed as a night bird of owl-kind.

The other fable, the "Cat and the Fox," is introduced not in fable form, but as an illustration. Widely diffused in world literature, both as it appears here or in its type form with other creatures as principals, it tells how the cat's single resource against pursuers proves better than the fox's many and subtle sleights. The nightingale uses it to exemplify the superiority of one sure gift to many less good ones. He mentions several of the fox's "sack" of tricks, and Atkins²³ believes the description of the fox's turning and twisting was drawn from Neckam, "*Est enim volubilis pedibus et nunquam rectis itineribus sed tortuosis amfractibus incedens*," which, however, as Hinckley has pointed out,²⁴ Neckam stole word for word from Isidore, except that he substituted *incedens* for Isidore's *currit*. One famous crux remains—the fox's trick of hanging by the bough, so that the hound is at fault and turns back to the moor. Here Neckam plainly parallels the poem, as Atkins shows, "*Venatoris quandoque evadit insidias . . . dum ramo alicuius arboris suspensa canes errare cogit, quae vestigia sequi habeant incertos*." But to suppose that Neckam invented this detail is impossible. He found it somewhere (not impossibly in the *Owl*)—and where he found it, the *Owl*-poet could also have found it. As it clearly appears, as shown above, that foxes do climb trees it is not impossible that *ramo* here may mean "on the bough" (despite the lack of preposition) and that the *Owl*-poet may have mistranslated it in their common source as an ablative of instrument.

These two notable fables—one significant through its framing and immediate bearing upon the theme of the poem, the other, the *Cat and the Fox* with its innumerable analogues, a true world-fable,²⁵ by no means exhaust the connection with fable-lore. Again, the importance of this connection may be emphasized, as

²³ Atkins, J. W. H., *Op. Cit.*, lxxvii.

²⁴ Hinckley, H. B., *P. M. L. A.*, XLIV, 340.

²⁵ Supplementary to Atkins' treatment, cf. the bibliography in Kenneth McKenzie *Italian Fables in Verse*, *P. M. L. A.* XXI (14), 270.

serving to explain how the poem could have come into existence without the need of assuming some supposititious French poem as original. One must wholly agree with Hinckley's conviction that "the *Owl* is pervaded from beginning to end with the influence of English fables," checking sharply however, at the words he adds, "popularly attributed to King Alfred."²⁶ Not that there is need to doubt the existence of a collection so attributed, but it is not in the least necessary to suppose the poet's indebtedness was confined to "King Affreus," or to Marie, Alfred's so-gifted interpreter. Of course, we cannot know what "Alfred" did consist of. But we are surely free to believe that the poet would eagerly scan any collection he could get his eye on—and it may perhaps be long before this phase of the poem ceases to call for perplexed study, sending one stumbling through the clueless mazes of those premedieval and medieval "short short stories" of three continents.

Atkins, in addition to his most valuable discussion of the two featured fables, has contributed other items. Thus, the owl's flying by night, not by day (vv. 227 ff.) which the nightingale thinks so extraordinary without giving any reason, Atkins (and Hinckley later) illustrates by the *De rosa et volatilibus* in Odo's *Narrationes*. Odo, one fears, has tinkered with his original; the introduction of the rose is a rococo touch; to have the owl, a *nycticorax*, steal the rose by night, and to have her sharp practice penalized by being condemned to fly only in the dark at pain of attack by other birds if she appear by day, betrays the hand of the fictionist. Other much simpler fables are available. The welcome accorded the nightingale by the lily and the rose (vv. 439-46) point to the early poetic and rhetorical association of the two flowers, for which the classic example is the 9th century *De rosae liliique certamine* of Sedulius Scottus, maintained illimitably to our own day. Odo's use of the nightingale as emblem of monastic chorister illuminating their austere life on their "hard boughs" with songs that echo and lead up to the heavenly *cantus* has been touched on above.

Hinckley²⁷ also noted several suggestive parallels. As regards

²⁶ Hinckley, H. B., *P. M. L. A.* XLIV, 347.

²⁷ Hinckley, H. B., *ibid.*

one or two, naturally one may differ in respect to points of detail or consider that he has pushed the analogies too far. He asks, for example, whether the "Bee and Fly" fable, as found in Marie, may not have been the original inspiration of the poem, as both are flying creatures and enter into controversy over their respective merits. This is hardly convincing as necessary in the premises whether as affording a pattern for the conflict or suggesting fundamental elements of comedy. The passage in which the nightingale asserts that the owl's so-called song prevents her from singing certainly does not find so apt a source in the *Hawk and the Nightingale* of Marie (66), where the matter of her song counts for little as in other fables cited below. The explanation of the frog's sitting "at (m)ulne under cogge" (v.86 MS. J, omitted in C) seems to point directly to Marie's "Mouse and Frog," as also the "redpurs" (v. 694) of the fox to Marie's version of the "Cat and the Fox" story with its repeated use of *puche* (*sacc* once, the proverbial "sack" of fable tradition, our "bag of tricks"). It is too far-fetched to connect the owl's sarcastic query whether the nightingale is ordained, and may therefore "curse," with the familiar tale of the wolf taught his alphabet by the priest as found in Marie, into which "cursing" does not enter at all; the purport of the query and nature of the rejoinder in the poem explain themselves. In reference to vv. 1183 ff.

Ah hit is for þine alde niþe,
 þat þu me akursedest oþer siþe:
 ah þarto is lihtlich ondsware;
 "Drah to þe!" cwaþ þe cartare.

it seems very probable that the poet is thinking of the council of birds which banned; *i. e.*, excommunicated, the owl, a story Atkins had already cited with reference to the owl's nocturnal habit. Here Hinckley, like Atkins, cites Odo, but the story is surely traditional. The nightingale's abuse of the owl's appearance may certainly be set in parallel with the insulting remarks of the *mesenge* to the cuckoo (Marie 65), but not necessarily its direct source; the situation is a typical one in fable. Too far-fetched certainly must be adjudged the explanation of the reference to the king's peace in the poem as due to the "Fox and the

Dove" story as Marie tells it, in which the fox tries to deceive the dove by a counterfeit letter of the king declaring peace between beast and bird—so also Marie's version of the jackass playing lap-dog as explaining the owl's claim that her nest is like men's houses and the willingness of ladies to find comfort in her ministrations.

Undoubtedly, Mr. Hinckley has greatly strengthened the probability to certainty that the poet knew Marie and the English "Aelfred" behind her. But his inquiry into this feature of the poem, its indebtedness to fable literature, was hampered by too exclusive attention to Marie and her source. Of course, one wishes to make the most of available sources known to belong to England—the Anglo-Latin *Romulus*, Marie, and "Aelfred," the ornate Walter—but one need not believe these to be all, even if one hesitate a bit to accept Oriental incursions and the fascinating possibilities of Benedict le Puncteur. Certainly the fable had had great *réclame*. Old collections were made over, others apparently obtained and compared for possible additions—there seems a touch of modern enterprise in Neckam's titles, *Novus Aesopus*, *Novus Avianus*. To study Marie or have recourse to Neckam or Odo as a matter of fact does little to show to what an extent the poet has fables at the back of his mind at every turn; the relatively few parallels cited by Atkins and Hinckley summarized above do not begin to show the amount of his indebtedness. Might one not then, one wonders, do better by surrendering one's natural desire to fix upon specific sources and try first to detect by any clues whatsoever the poet's debt to the parabolic and homilectic literature with which he was plainly so familiar—in this way might one not get a better notion of his indebtedness both quantitatively and qualitatively? In such an attempt, one should not, of course, hesitate to take long shots or mind if, for the moment, one makes mistakes. The important thing is to gather material for later sifting and possible specific attribution. One cannot also discriminate as regards the *genre* of the sources used. The debate, the fable, its property in common with encyclopaedic and allegorized natural history, the moral in itself or homilectic expansion of it, the proverb as source or derivative of fable, rhetorical and poetic similitudes, homilectic commonplaces

in general, all merge and interchange, and may be brought in to provide possible clues and checks. This method seems to prove itself helpful at once. Limitations both of space and time prevent its being carried through so fully as it should be by the present writer, but the following outline will, it is hoped, serve to show its helpfulness. Such detective enterprises need not, it may be added, prove disillusioning whether with a Milton, a Chaucer, or our *Owl*-poet—indeed, emphatically, rather the reverse.

Courage is indeed necessary at the very start, for at once there seems peremptory reason to quote two works that seem to have met with but scant regard in fable inquiries. These two works are the *Speculum Sapientiae* or *Quadripartitus Apologeticus* of a certain, or rather extremely uncertain, "Beatus Cirillus Episcopus" and the *Dialogus Creaturarum* of a quite as evasive Nicholaus Pergamenus. Of these Jacobs in his "Short History of the Fable"²⁸ says, "I should perhaps have made some reference to a collection (*Speculum Sapientiae*) associated with the name of St. Cyril²⁹ which is the most original of the medieval sets of fables. Graesse has shown it to be of the 13th century. Why then does he still style it, with Nicholas Pergamus' *Dialogus Creaturarum* (of the 14th)³⁰ *Die beiden ältesten lateinischen Fabelbücher des Mittelalters* (Tübingen 1880)?" Jacobs' question is certainly justified. However, both collections are in a high degree striking and full of interest—especially as containing a number of fables quite out of the familiar line of the Romulus tradition with their so-often parroted repetitions. Knowing, however, how little of original invention is to be found in fable literature, we need not suppose that those fables here which are not paralleled in familiar collections are original inventions, rather we must

²⁸ Jacobs, Joseph, *Op. Cit.*, 215.

²⁹ Robert, A. C. M. in his *Fables inédites des XII^e, XIII^e et XIV^e siècles*, lvij, identifies him with the great apostle to the Slavs who flourished *ca.* 875 (vide Introduction I, lvij). So also does Lessing but Graesse rejects this identification.

³⁰ Graesse's date is certainly dubious; the dates of his criteria all but one are of the 12th century or earlier,—the *Kaiserchronik* which he dates after 1275 was in reality begun about 1150 and might easily have been seen in an earlier version and Brito, noted as having died 1356, was probably the friend of John of Salisbury whom John designates as a fabulist in the *Entheticus* to his *Polycraticus*. With this amended view in mind, a 13th century date seems more plausible than a 14th century date.

suppose they derive from some other as yet undiscovered tradition. At all events they contain certain striking parallels that warrant question whether the *Owl*-poet may not have known earlier analogues of the fables which afforded them. Approximately, in point of time, these collections stand in the same relation to the *Owl* as Odo or Nicholas Bozon—with some likelihood of connection with England.³¹

At the opening of the poem, the owl sings her hours (*hire tide* v. 26, cf. also vv. 323–8, 1658 ff.)—this is appropriate to her traditional capacity as typefying the austere monastic and recluse. The nightingale, sensitive artist that she is, charges that the owl's cacophony stops her throat (vv. 35 ff.)

Iwis for þine [vu]lle lete,—
wel [oft ich] mine song forlete;
min horte atflīþ & falt mi tonge,
.
.
.
Me luste bet speten þane singe
of þine fule ȝoꝛelinge.

The familiar fables in which the nightingale is overcome with anxiety over her threatened nestlings when bidden to sing by the hawk or simply fear for herself with the hawk near are not apt parallels. The contrast between the owl's singing and the nightingale's, as a main motive through the poem, is paralleled both in Cirillus and Nicholaus in fables with the crow and the nightingale as principals. The fable of Cirillus³² *De corvo et philomela* (lib. 2, cap. 26) tells how when the crow well-fed was singing "dissona simphonia," the nightingale burst forth to drown her out and make light of her singing powers, was ironically complimented and urged to sing on whereupon she "percussa prece, ac eo, quo caeteri naturaliter inclinantur, aversa statim conticuit ac avari pectoris flatu retento ventum sui capitis sine voce rationis in auribus conditum fudit." The crow thereupon berates her vanity and empty-headedness in a fashion that parallels the owl later in the poem, as will be noted later. Nicholas affords a still

³¹ That is, if the Brito mentioned be the fabulist friend of John of Salisbury.

³² Graesse, J. G. Th., *ibid.*, 63.

closer parallel in his "*De philomela et corvo inter caeteras aves*" (dial. 66).³³ The eagle, while the birds are feasting, asks the pleasure of a song from the nightingale, "vade, filia, frange vocem et canta, ut docta es, ut inde corda nostra consolentur." The nightingale "obliged," and while she sang to the pleasure of all, a crow passing by considered and said to himself, "'volo et ego cum philomela cantare, vocem magnam habeo et auditus ero a longe!' Et coepit turpiter crocitare, philomela autem obmutuit non valens tam turpiter audire cantare eum." All are angered and the eagle bids him to make off; he refuses and is condemned to death.

That neither Cyril nor Nicholas is "original" (Jacobs' term is ill-advised) is plainly indicated, not merely by inherent probability, all fable literature save for moralization being so characteristically derivative, but also by the citation of authority. These fables, in brief, drew from other than the tradition so familiar to us, about certainly from Oriental sources. We have here, then, evidence in fable literature of a tradition of the opposition of the nightingale's song and the owl's.

To pass on now to the details of the characterization of the two protagonists in the poem in the course of their arraignment of each other. Promptly the nightingale's abuse of the owl begins. From v. 61 on, repeatedly through the poem, charges of ugliness, loathesomeness, hatefulness, cruelty, filthiness, are brought against her. Her body is short, neck thin, head big, eyes coal-black and staring, bill sharp, hooked, her song clacking, says the nightingale; her food (v. 87) is frogs, snails, mice; her sight (vv. 239 ff., 364 ff.) is wretched, adapted only to the dark; she lurks by day, flies by night (v. 89), sings by night, not by day (vv. 219 ff., 227), she is fierce and cruel to small birds (vv. 63 ff.), loathed and assailed by them (vv. 65 ff.); even the tiny titmouse (v. 69) would gladly tear her to pieces; men hate her and pelt her (vv. 1115-1206) and she is of use only when gibbeted as a scarecrow after death; she sings only of sorrow and impending evil; if a prophet, as she says, it is because she is an accursed witch. If the debate had turned on facility in malicious abuse,

³³ Graesse, J. G. Th., *ibid.*, 209.

there could be no question as to the victor. The nightingale's charges are soundly based upon tradition.³⁴

A number of them can be paralleled, severally or in combination, in fabulous natural history or in fable as we have seen either as regards the owl herself or the cuckoo, or hoopoe, or hawk, her surrogates. But by far the most inclusive parallel is the *De noctua quae conqueritur contra lucem* of Cyril (lib. 3, cap. 17)³⁵ for it is wholly concerned with the owl's evil traits. The owl, it seems, "cum multum de nocte noctua in furti facinore desudasset" at dawn "minus intuens sed plus timens" began to complain and curse the light: "Ecce quidem jam non video ubi condar: jam visa ab inimicalibus avibus confundar." Whereupon the light replies, "Nimirum quod tibi, nequam, odiosa sum, gaudeo, sed magis quod caliginosa sum, jubilo, attamen maxime quod damnosa exsulto. In nocte enim vides, ut noceas caeteris quiescentibus, inquietaris ut rapias, universis dormientibus vigilas, ut occidas. Inquietasti noctem, sprevisi diem, odisti lucem, pervertisti ordinem naturalem." The other birds rejoice in the light but you disappear lest you perish; at night when all of creation sleeps, you watch that you may kill. "Quare, illuminatrix cunctorum, sum tibi tenebra odiosa, cunctis gratissima ac tibi mortifera, cum universis sim segura? nisi quod profecto oculus tuus nequam est, cor malevolum, conscientia scelerosa . . . Attamen quod mansuetae aves inimicantur tibi, evidens argumentum malitiae tuae est, contra quam non omnis dumtaxat armatur lex, sed siquidem aequitatis ipsa amica tota etiam insurgit natura. Quibus taliter diffinitis adversus eam jam insurgentibus avibus mox dilaniata est mansuetudinis inimica."

Further two important motives are combined in the *De nicticorace et alauda* (dial. 64) of Nicholas.³⁶ The *nicticorax* (i.e., night crow, as Brito and Isidore teach) "ipsa est noctua, quia noctem amat." Having promised to visit the sun with the

³⁴ Isidore in his *Etymologies* quotes Ovid's *Metamorphoses* (5.549 ff.):
foedaque fit volucris venturi nuntia luctus
ignavus bubo dirum mortalibus omen.

So similarly in Philip de Thaün's *Bestiare*.

³⁵ Graesse, J. G. Th., *ibid.*, 93.

³⁶ Graesse, J. G. Th., *ibid.*, 207.

lark, the owl has to welch on her promise because of her weak sight and the lark in anger "ipsum semper abhorruit et persequuta est. Qua de causa non audens noctua de die volare timore alaudae, de nocte vero volat et cibum sibi quaerit."

It will be remembered further that near the close of the poem, when all the small birds collect to shriek their delight over her supposed defeat, the owl fiercely warns the nightingale (vv. 1667 ff.) that if a host is led against her, she for her part has her kindred, they of the hooked bill and crooked claws (also the cock who can fight well and is her ally, for both have "bright" voices and sing by night), a formidable host they had better fear if she cry "out-hest" on them all. This passage of the poem is a striking one and it finds a most interesting parallel in the fable *De bubone qui voluit habere dominium alitum* (dial. 82).³⁷ Indeed this fable includes a most surprising number of motives found in the poem relating to the owl; one or two are here given a discreditable turn which in the poem the owl cites among her virtues. The fable summarized with comments runs as follows: "Bubo a sono vocis nomen habet ut dicit Isidorus. Est autem avis feralis [of this the owl is proud, vv. 271] onusta plumis [and of this also—vv. 151 ff.] sed gravi semper detenta pigritie. Debilis est ad volandum. Ait etiam quidem [why not tell us who?]: bubo bibit ova columbae mures venatur, in ecclesiis habitans ["Ich can nimen mus at berne an ek at chirche ine þe derne," vv. 607 ff.] oleum de lampidibus bibit (!) et tamen defoedat eam stercoribus [the charge of filthiness again; the owl does not mention this] quando impugnatur ab aliis avibus quae in luce habitant, resupina pedum unguibus se defendit, de nocte evagatur et circumvolat, de die vero in murorum rimulis [here is a new note] se abscondit. Hac ave capiuntur ceterae volucres, quae circumvolantes eum deplumant, eo quod omnes sibi inimicantur, et propter hoc aucupes cum eo deprehendunt alias aves [the owl it will be remembered tells this of herself (vv. 1623 ff.) to prove she is useful after death (which the nightingale is not), thus enabling the nightingale to claim that the owl has lost her case by concession]. Plinius dicit, quod a cauda de ova exit, quoniam pondere capitis ("grettere is

³⁷ Graesse, J. G. Th., *ibid.*, 227.

þin heved þan þu al," v. 74] partem corporum mater fovendum applicat. Est igitur avis nocturna et turpissima inter caeteras aves despecta, unde exstat versus: turpis avis bubo, turpissima bestia bubo." Then the story begins, how the owl swollen with conceit determined "cum amicis consanguineis inter aves salire omnesque magnas trucidare ut post princeps et dux alitum existam." So she calls her kinsfolk "porphirionem et nycticoracem, vespertilionem et zuetam nec non et omnes nocturnales aves" and proceeds with her plot, but is caught, charged with treason, "et in patibulo post suspenderentur, necnon et omne genus bubonis sic in perpetuum persecutioni datum et infestum et ab avibus est devitatum. Haec est enim causa secundum fabulas [he cites tradition for history, it will be noted] pro qua bubonem avespersequuntur et sibilant, unde in die non audet inter volucres apparere, sed de nocte volans cibum sibi quaerit dicens: male levat se, qui cadit, perit et qui tradit [shame and hate attend the traitor in the poem, "vor svikedom haueþ schome & hete," v. 167]." One most interesting parallel here, the reference to the use of the owl by the *aucupes*, appears twice, also the fact that she is hung in *patibulo*—immediately suggesting the nightingale's bitter jibe how she is hung on a stick and used as a scarecrow (vv. 1123 ff.) and her own claims of usefulness after death, similarly gibbeted (vv. 1624 ff.) as a lure to attract the excited attention of small birds and enable their capture.

Certain phases of Nicholas' fable seem to have parallels in a fable found in the *Pañchatantra*—which may be its source—especially the owl's seeking supremacy and her attack upon her ancient enemies, the crows, in which endeavor the owl of the *Pañchatantra* fable is victorious. In the connivings between the crow-king's ambassador and the owl-king's ambassador, the owl's weak sight is played upon considerably.

Other fables beside these quoted from Cyrillus and Nicholaus and the *Pañchatantra* touch on various details of her tradition—her food. The nightingale in the poem expressly refers (vv. 244) to a "vorbisne" (possibly implying a fable) about the owl's weak sight, and the owl replies that she can answer the charge with the "right truth" without "spell"; *i.e.*, talk or tale. The Phae-

drian fable, *Cicada et Noctua*³⁸ pictures the owl as accustomed,

victim in tenebris querere
cavoque ramo capere somnum interdiu.

During her defense the owl instances the hare (vv. 373 ff.) as a lover of the dark but clever enough with his speed and tricks of flight that need keen sight. This might seem drawn from observation, for the hare does not play a creditable part in fable generally, except that "poor watt" does shine in "footmanship" as Sir Roger quaintly called it; that is, in speed. But to parallel this we have Odo's and John of Sheppey's fable of the wager between the wolf and the hare³⁹ and how the decision went to the hare. In John's lively account,

Lupus, stridens dentibus, insilit in Leporem; Lepus salit ultra eum, et semper, cum Lupus crederet eum capere, Lepus fuit ad caudam Lupi vel a latere, et, cum sic diucius fuisset dimicatum Lupus, volens Lupum totaliter confundere arripuit directum cursum per planum, et Lupus eum insequitur donec fatigatus et ulterius progredi non valens, cecidit in terram, quasi mortuus, vix anelitem suum trahens.

The tradition of the nightingale hardly needs comment so far as its major features are concerned, so frequently do these find place in medieval literature—her association with spring and summer, with budding green things and with flowers—yet it may not be out of order to indicate here, inasmuch as it has a definite relation to the *Owl*, the place that the nightingale holds in clerkly poetic tradition, the light Latin verse, known as Goliardic verse which, according to Jarcho,⁴⁰ begins as early as the 9th century. To the disciples of Goliard and other contemporary poets he ascribes the *Natureingang* together with the introduction of "singing birds" preeminent among which was the nightingale; indeed, Jarcho affirms, the praise of the nightingale became for the poets of the 9th century and later a beloved theme, forecasting, as it were, its conventional use by the Troubadour poets of the 12th and 13th centuries.

³⁸ Hervieux, L., *Op. Cit.*, II, 37.

³⁹ Hervieux, L., *Op. Cit.*, IV, 230, 448.

⁴⁰ Jarcho, von B. I., *Die Vorläufer des Goliard*, *Speculum* III, 523 ff.

It is easily seen from Jarcho's study of Goliardic verse that by the 12th century the nightingale had become a tradition with Latin poetizers, but it is the object of the present study to point out the relation of the *Owl* to the above-mentioned clerkly Latin tradition. It is to light Latin verse, then, that we must look for many of the outstanding features concerning the nightingale which the *Owl* poet attributes to one of the principal actors of his bird drama. In Goliardic and other contemporary Latin verse written in lighter vein, the nightingale appears in three leading rôles: (1) as a part of the background, delighting to sing the song of awakening earth; (2) as virtuoso of the bird choir, always enchanting men with the beauty of her song, sometimes cheering them in their sorrow and often enticing them to wantonness; (3) as chorister of divine praise. The third has already been illustrated by others sufficiently. I append illustrations of the first two.

The poet's choice of setting, though so distinctly individual and reminiscent of springtime in England, certainly embodies those conventional features that appear in earlier popular Latin verse and later in Provençal song. The poet was in a certain dale, in a secluded corner when he heard the "plait" between the owl and the nightingale who had taken her position on a fair bough—there were blossoms enough roundabout—amidst the tall thick hedge; and we are further told that she was the gladder because of her twig (vv. 1-4, 15-19). It could hardly be accidental that one should find such a parallel in contemporary Latin verse as:

In hac valle florida
floreus fragratus
Inter septa lilia
locus purpuratus
dum garritus merule
dulciter alludit
philomena carmine
dulcia concludit.⁴¹

⁴¹ *Carmina Burana*, ed., J. A. Schmeller, 118, *Carmen* 34, str. 2.

In the Latin poem, it is to be noted that it is the merle which sports among the flowers; the poet makes the merle the "chatter-box" instead of the nightingale as in the *Owl*. That the nightingale is the gladder because of her pleasant abode on the twig is distinctly reminiscent of Fulbert of Chartres' poem *De Laude Philomelae*—in which she sings of "idle summery things" and all the springtime joy she sees:

Et extendens modulando gutturi spiramina,
 Reddit voces, ac estivi temporis ad otio.
 Volitando scandit alta arborum cacumina,
 Glorioso valde facta—veris pro letitia—
 Ac festiva satis gliscit sibilara carmina.⁴²

She sings because it is spring and because of her gladness that rude winter has passed, in the poem which follows:

Tellus flore vario vestitur
 et veris presentia sentitur
 philomena dulciter modulans auditur,
 sic hiemis sevitia finitur.⁴³

Again, in spring when the seeds of earth produce anew and trees are stretching leafy arms and flowers bedeck the grass, then the nightingale laughs and sings:

Cum telluris vere novo producantur germina
 Nemorosa circumcirca frondescunt et brachia
 flagrat odor quam suavis florida per gramina
 Hilarescit Philomela dulcis vocis conscia.⁴⁴

Not only does the nightingale attend upon spring; she is its herald, largely replacing the cuckoo—which seems never to have had a good reputation when one remembers Marie's bird parliament and the fate meted out to the pretender—

⁴² Fulbert of Chartres in *The Romanesque Lyric*, 364 ff.

⁴³ *Carmina Burana*, 186, *Carmen*, 109.

⁴⁴ *Cambridger Lieder*, ed., K. Strecker, No. 10, *De Luscinia*—The above verses along with 11 others seem to have been appropriated by some music-loving monk from Fulbert of Chartres' poem *ut supra*—Except for a few trifling differences which may be scribal, Fulbert's poem was taken bodily as the nucleus of the above *carmen*; he also borrowed liberally from Eugenius of Toledo and Alcuin's poem on the same theme.

reddit voces ad estivi temporis indicia⁴⁵

Each bird according to her gifts swells the chorus of rejoicing at the approach of spring as the *Carmen Aestivum* in the Cambridge collection indicates:

Vestiunt silve tenera ramorum
virgulta, suis onerata pomis,
canunt de celsis sedibus palumbes
carmina cunctis.

Hic turtur gemit, resonat hic turdus,
pangit his priscus merulorum sonus;
passer nec tacet, arripens garritu
alta sub ulmis.

Hic leta sedet philomela frondis
longum effundit sibilum per auras
sollempne, milvus tremulaque voce
aethera pulsat.

.
aves sic cuncte celebrant estivum
undique carmen.⁴⁶

In the above poem as elsewhere we find the nightingale's song brought into contrast with that of other birds whose cacophonies, to say nothing of the crow—mentioned elsewhere as the theme of fable—act as a foil for the surpassing virtuosity of the nightingale.

By such contrast it becomes evident that the nightingale is superior to all other singing birds, one of the main contentions of this songster in the *Owl*. Her place as diva of the bird choir finds expression in the verses of Sedulius Scottus.

Nunc variae uolucres permulcent aethera cantu
Temperat et per nox nunc philomela melos.⁴⁷

"Her measured music stops such tunes as float from birds of lowlier song," filling the forests with melodies—

⁴⁵ *Cambridger Lieder, ut supra.*

⁴⁶ *Cambridger Lieder*, 65, *Carmen*, 23.

⁴⁷ Sedulius Scottus, *De Pascha*, II, 21, 22.

an þarafter hire steuene dihte
 an song so schille & so brihte
 þat feor & ner me hit iherde (vv. 1655-7).

and other birds came out to rejoice—as in the fable mentioned elsewhere.

Vincit omnes cantitando volucrum catervulas,
 Implens silvas atque cunctis modulis arbustula.⁴⁸

Again, the nightingale surpasses all birds in song.

Philomela
 Quae cantu cunctas exsuperat uolucres.⁴⁹

The beauty of the bird's song pleases some while others are astonished at the duration as well as the sweetness of its melody; in this connection one will recall that one of the contentions of the owl is that the nightingale ought to be called "chatterbox" because she sings day and night, dinning in men's ears until they little esteem her song which becomes cheapened because of its frequency. One might expect the expression of such an opinion from the crabbed owl; not so the lovers of the nightingale; her continued performance is their delight, their joy:

Tu, Philomela, potes uocum discrimina mille,
 Mille potes uarios ipsa referre modos.
 Nam quamvis aliae uolucres modulamina tenent;
 Nulla potest modulis aequivalere tuis.
 Insuper est avium, spatiis garrire diurnis,
 Tu cantare simul nocte dieque potes.⁵⁰

In this elegy, it will be noted that other birds *chatter* during the day, while the nightingale *sings* night and day. Other birds must all give place to the nightingale whose liquid notes cause the poet to exclaim.

Nolo tacere uelis, nolo tacere uelis!⁵¹

⁴⁸ Fulbert of Chartres, in *The Romanesque Lyric*, 364 ff.

⁴⁹ Albi Ovidii Iuuentini, *Elegia de Philomela*, in *Poetae latini minores*, ed. J. C. Wernsdorf.

⁵⁰ *Ibid.*

⁵¹ Iulii Sperati, *De Philomela* in *Poetae latini minores*, ed. J. C. Wernsdorf.

The effect of the nightingale's song is varied; like the season of which she is the herald she is charged with seductiveness by the owl:

vor sumeres-tide is all to [w]lonc
an doþ misrecken mannes þonk
vor he ne recþ noȝt of clenness,
al his þoȝt is of golnesse. (vv. 489 ff.)

þu draȝst men to fleses luste
þat w[u]lleþ þine songes luste.
al þat þu singst is of golnesse. (vv. 895 ff.)

Summer turns men's thoughts from purity so that they misdo; so too does the night songster teach wantonness. The idea seems to have been quite well established, as will be demonstrated; it appears as a convention in many students' songs.

Tempore brumali
vir patiens,
animo vernali
lasciviens⁵²

Man, bearing the rigors of winter, wantons in springtime. In the refrain of another poem spring induces youth to become sportive.

Velox etas præterit
studio detenta
lascivere suggerit
tenera iuventa.⁵³

Another song indicates that birds in general sing seductively in springtime

Ecce florescunt arbores
lascive canunt volucres
inde tepescunt virgines
Dulcis amor!⁵⁴

⁵² *Carmina Burana*, 212, *Carmen* 140.

⁵³ *Ibid.*, 137, *Carmen* 48.

⁵⁴ *Ibid.*, 195, *Carmen* 121.

In the next poem,

Vernant veris ad amēna
thyma, rose, lilia,
his alludit philomena,
"melos" et lascivia.⁵⁵

the owl's charge has a parallel; for the delight of spring, thyme, rose, lily grow verdant, the honey-voiced and wanton nightingale plays with these. But the nightingale claims that she consoles persons in sorrow, and indeed, tradition seems to bear out her claim that she rejoices men's hearts and has much thanks therefor.

Vox, Philomela, tua curarum semina pellit,
Et recreat blandis anxia corda sonis.⁵⁶

Your voice, O Nightingale, dispels the seeds of care and revives with sweet sounds anxious hearts—surely such praise as this should silence the detractors of the nightingale.

Not only does she revive their hearts when care oppresses, she boasts that she turns men's hearts toward heaven. Since this phase of the nightingale tradition has been so ably treated by Atkins in his edition of the poem⁵⁷ a review of it here seems unnecessary.

From this brief survey which is meant to be suggestive rather than exhaustive it is apparent that clerklly tradition accorded to the nightingale both the highest and the lowest attributes; she might incite men to wantonness with her song or she might turn their thoughts to the highest things, as she avers in her retort to the owl of our poem; preeminence among singing birds was likewise attributed to her and no picture of spring was complete without her.

These features naturally find their way into fable—her song notably as in the peacock's plaint to Juno, and the touching story of her being forced to sing for the hawk in the hope of saving her nestlings and the fables cited above. Traditional

⁵⁵ *Ibid.*, 135, *Carmen* 46.

⁵⁶ *Julii Sperati, Op. Cit.*

⁵⁷ Atkins, J. W. H., Edition, lxix.

motives are admirably used by the poet—her plumage (vv. 577 ff.)

þu art dim an of fule howe,
an þinchest a lutel soti clowe.

which curiously enough has not tempted editors to cite Alcuin's memorable line

spretā colore tamen fueras non spretā canendo;

her castle on the spray or in the hedge (vv. 59, 175) while the owl in her stump or ivy has her nest woven solidly like the houses men build (vv. 615 ff.) which finds parallel in Odo's *De Upupa et Philomena* as noted above: the charming passage describing her coming with the spring (vv. 433 ff.).

Certain motives do, however, invite comment. The owl's challenge to compare external appearance (vv. 150 ff.) might readily have some fable analogue but none closer than possibly the familiar "Peacock and the Crow" is yet forthcoming. The nightingale's repeated rejoinder exalting wit and craft above brute strength as a main motive of the poem is treated below. As to the nightingale's quick wit, often evidenced and more than once claimed by her or referred to, one may cite Odo's *De Philomela et Sagittario*⁵⁸ in which the small bird escapes with such cleverness through her offer of precious counsel and the fiction of the pearl.

The owl's opinion of the nightingale is by no means the favorable one of tradition. "You are called nightingale—much better might you be called 'galegale'; you have too much to say";

"þu [h]attest niztingale,
þu miȝtest bet hoten galegale,
vor þu hauest to monie tale. (vv. 255-7).

"you think every song horrible that is not like your own piping; your voice is like a pipe made of small unripe wood; you chatter like an Irish priest; you sing all night, ever you keep up your noise night and day, dinning into men's ears, till it is so cheapened that they care naught for it (vv. 315 ff.)"

⁵⁸ Hervieux, L., *Op. Cit.*, IV, 252.

þu wenist þat ech song bo grislich,
þat þine pipinge nis ilich.

.
& þin⁵⁹ is ilich one pipe,
of one smale wode unripe.

.
þu chaterest so doþ on Irish prost.

.
Ac þu singest alle longe niȝt,
from eue fort hit is dai-liȝt,

.
& eure croweþ þi wrecche crei,
þat he ne swikeþ niȝt ne dai.
Mid þine pipinge þu adunest,
þas monnes earen þar þu wunest,
& makest þine song so un[w]rþ
þa[t] me ne telþ of þar noȝ[t] w[u]rþ.

“You sing in summer, a time given over to wantonness—for of wantonness is all thy song; the moment the breeding season is over and the brooding time comes, you lose your voice; then you pipe like a titmouse, clucking with hoarse voice, sing worse than a hedge-sparrow (vv. 489 ff.)

vor sumeres-tide is al to [w]lonc,

.
for of golnesse is al þi song,

.
Sone so þu hau[e]st itrede,
ne miȝtu leng a word iqueþe,
ac pipest al so doþ a mose,
mid chokeringe, mid steune hose.
ȝet þu singst worse þon þe heisugge,

“There is nouseful thing in you except your shrill throat, and your chattering, for you are little and unstrong and your plumage is dingy; you do no more good among men than doth a wretched wren, for Alfred said, a man for his mere song is not liked or esteemed very long; you are drab, of foul hue, a little sooty ball;

⁵⁹ þin refers to stefne in v. 317.

not fair, strong, thick, or long; not clean; you haunt the back-
doors of men's houses, eat spiders and foul flies (vv. 556 ff.);

Seie me nu, þu wrecche wiȝt,
is in þe eni oþer note
bute þu hauest schille þrote?
þu nart noȝt to non oþer þinge,
bute þu canst of chateringe:

.

Wat dostu godes among monne?
Na mo þe deþ a w[re]cche wranne.

.

Alured sede, þat was wis:
he miȝte wel, for soþ hit is,
"Nis no man for is bare songe
lof ne w[u]rþ noȝt suþe longe:

.

þu art dim an of fule howe,
an þinchest a lutel soti clowe
þu nart fair, no þu nart strong,
ne þu nart þicke, ne þu nart long;

.

þu nart vair ne þu nart clene.
Wane þu comest to manne haje,

.

þarto þu draȝst, þarto þu w[u]nest,

.

Ac wat etestu, þat þu ne liȝe,
bute attercoppe & fule ulige,

"Yet again, you need not pretend to sing of holiness for when you
sit on your bough, you draw men to lusts of the flesh, all that
thou singest is of wantonness" (vv. 849 ff., 893 ff.)

þu seist þat þu singist mankunne,
& techest hom þat hi fundieþ honne
vp to þe songe þat eure ilest:
ac hit is alre w[u]nder mest,
þat þu darst liȝe so opeliche.

.

ȝet ich þe ȝene in oþer wise:
 vor þane þu sittest on þine rise,
 þu draȝst men to fleses luste,
 þat w[u]lleþ þine songes luste.

There are three leading motives here. The first is the smallness and feebleness and dingy apparel of the nightingale familiar in tradition though there placed in dramatic contrast with the resonant strength and beauty of her voice. There is an amusing fable on this motive and what is more it is one of the rare exceptions that involve the disparagement of the nightingale—the wolf and the famished fox in a *Romulus* at Berne.⁶⁰ The hungry fox is advised by the wolf to capture and eat the nightingale at a certain place, “et tunc eris mirabiliter saciatus.” When the wolf asks later “Non fecisti quod dixi?” the fox dryly replies, “Sic, sed certe *il ni a que plumes et paroles*.” It should also be remarked in this connection that the tradition regarding the small size of the nightingale is classic. One should recall the famous centuries-old story in Plutarch of the Spartan, who held a plucked nightingale in his hand and said,

“vox et praeterea nihil.”

This also has a bearing on the second motive, the lack of any useful trait in the nightingale; she has her song alone and with that she makes a perfect nuisance of herself, singing at all hours to please herself till people take no account of it. For this a curiously apt parallel is found in the fable of Cyrillus *De corvo et philomela*⁶¹ already referred to in another connection above. When the nightingale has burst into song to outdo the dissonance of the crow, the crow “vacui capitis vanitatem agnoscens” ironically expresses her delight and urges her to proceed, reducing her to silence. Whereupon the crow sapiently reads her a lesson,

“video bene sapienter dixisse Aristotelem in physionomia sua, quod philomelizantes naturaliter sunt fatui. Habent enim cor calidum et melancolicum, cerebrum nullius humidi stillativum. Quamobrem stolidum eis est amicum vinum, namque cithara vacua resonat et chorda sicca concantat. Verum

⁶⁰ Hervieux, L., *Op. Cit.*, II, 311.

⁶¹ Graesse, J. G. Th., *Op. Cit.*, 63.

ignaviae tuae hic testis existit, quod ipsa tua es felicitate infelix. Vento quippe satis consona es, omnino dissona rationi, nam taediosissima jubilas, sed rogata non cantas, captiva suavius vernas et modulatio tua tota est perversitas. Quid ergo pectoris ventositate inflaris et infelici vanitate superbis? Nonne sapidius folles in organis canunt et in psalterio plectrum, in figella pilus et in cithara mortuum intestinum? Sed ventosus ex toto est, qui suo vento gloriatur et extollitur ["vor þat is a forworþe þat bute singe noȝt ne can," vv. 573 ff.]."

After this masterly philippic, this particular nightingale, unlike the one in the poem, went off subdued. The fable concludes "quibus auditis confusa, philomela se acscondit."

A like moral teaching however "eloquentia" and "facundia" may become "taediosissima," if not controlled by wisdom as appears in the preceding fable *De rana et anguilla* of Cyrillus:⁶²

"Sic ergo cum intumescis facundia, bonum tibi in malum jam convertitur et tua tibi ipsi lingua mentitur. Sic et scientia in amentiam vertitur ac in corruptelam gratia permutatur. Virtus quippe fit vitium et serenum in nubilum variatur. Sic tua scientia te decipit arsque fallit, sic tuus te quidem nitor contaminat et pulchritudo deformat. Malo ergo sine vocis artificio cum formica gaudere prudentia quam vocis tonitruo insanire cum asino, ac cum jubilo, captiva vernare cum philomela, malo certe in aeternum non loqui quam locutione sempiternali captivanda in superbiam erigi."

These parallels may serve to show fully that the nightingale like the owl draws specifically from a fable tradition in addition to familiar and poetic tradition. Of the other birds incidentally mentioned, the hawk (heckled like all the owl's kin), the wren (carrying her traditional authority), the tiny titmouse (Marie's *mesenge*), and the hedge-sparrow, all have their passports as rightful citizens of the bird-realm of fable. Odo is our immediate authority for the long-remembered story of the luckless hedge-sparrow beheaded by its cuckoo foster child⁶³ which was to be told again by Shakespeare long afterward (*Lear* I, iv)

The hedge-sparrow fed the cuckoo so long
That it had it head bit off by it young.

Two animals beside the fox and the cat appear. The bear affords

⁶² Graesse, J. G. Th., *Op. Cit.*, 53.

⁶³ Hervieux, L., *Op. Cit.*, IV, 181.

what Atkins calls a fantastic illustration, "he might better teach a bear to wield shield and spear (vv. 1021 ff.)." Atkins conjectures that it was possibly suggested by a description in Neckam of apes trained to fight in a mock tournament while in the succeeding chapter the bear's fierceness is described, and the poet might have blended the two or confused them in memory. This seems rather far-fetched (especially if one does not believe the poet drew from Neckam). A bear might easily be trained by a jongleur to do this. But it might readily have been suggested by the bear-army of the Lion-Prince in the fascinating story in the Anglo-Latin *Romulus*.⁶⁴ In the *Pañchatantra*, there is a fable in which a monkey, armed with a sword, guards the king as he sleeps—why might not a bear be so armed?

As for the ape we are told (vv. 1325 ff.)

On ape mai a boc bih[o]lde
an leues wenden & eft folde
ac he ne con þe bet þaruore
of clerkes lore top ne more.

This need not be explained as suggested by the ape's natural mimicry or a trick due to training. In Nicholas⁶⁵ is a fable *De simia quae scribebat libros*. Here the ape in the rôle of a cleric cannot write correctly because he cannot keep his mind on his writing, but talks at the same time and writes down what he is saying or what others say. The ape quite frequently appears in choristers' robes in ecclesiastical carvings.⁶⁶ Reference has been made before to incidents from fables in the poem appearing in carvings—hawks baited by small birds on a misericord in Norwich cathedral and a fox treed by hounds on a misericord at Gloucester, as was pointed out by Bruce Dickens.⁶⁷ It will be evident that further work is necessary to discover the sources of a number of motives that by their nature seem traceable to fable or fabulous natural history—and also the earlier sources, if possible, of fables used which were cited from collections later

⁶⁴ Hervieux, L., *Op. Cit.*, II, 648.

⁶⁵ Graesse, J. G. Th., *Op. Cit.*, 246.

⁶⁶ Evans, E. P., *Animal Symbolism in Ecclesiastical Architecture*, 186.

⁶⁷ T. L. S., April 7, 1927, 250 ff.

than the poem, especially the collections of Cyrillus and Nicholas.

In the gnostic sayings and comment thereupon of which the poem is full, the influence of the fable also appears. It will be remembered that both disputants repeatedly, the poet himself once or twice, enunciate set truths, moralisms, similitudes—the poem is compact of them. A large number of these are of common currency, aphorisms bearing Alfred's name. Those that bear no tag—saying, "sooth-saw," "vorbisne," "beispiel"—are of like sort or recognizable as moral commonplaces. The question of date, as between the 12th and 13th centuries, does not enter here—collections of aphorisms in Latin and both vernaculars (the extant *Proverbs of Aelfred*, for example, *circa* 1150) long antedate the poem and run down for centuries after.

Of those that are without reference to authority for which no source is readily available, nearly every one is tantalizing because of its suggestion of familiarity. Some of those that one hesitates over in the places where they appear are found to be variations or derivatives of themes more explicitly enunciated elsewhere. Those that find no warrantable connection with themes elsewhere, are the following: if treacherous, hide thy treachery for it brings shame and hate (vv. 165 ff.); God's kingdom is ever sweet, a basket ever full, its riches, however expended, ever the same (vv. 357 ff.) (plainly a homilectic commonplace, like the similitude of the light which though all use it, it beams never less—transferred in courtly love verse, as in Chaucer, to womanly beauty); he is wise who boldly faces his foe that he fail not through cowardice, for boldness intimidates the foe, fear and flight embolden him (vv. 402 ff.)—this might be well paralleled by Walter of England's expansion of the fable of the hares and frogs;⁶⁸

Spem decet amplecti; spes est uia prima salutis
 Sepe facit metui non metuenda metus . . .
 Sic timeat quicumque timet, ne mole timoris,
 Spe careat; gravis est spe fugiente timor.
 Speret qui metuit; morituros uiuere uidi
 Spe duce, uicturos spe moriente mori.

⁶⁸ Hervieux, L., *Op. Cit.*, II, 329.

The owl is like the evil man, hating happiness and grudging and growing ill-humored if he sees men glad; summer a time of wantonness (vv. 489 ff.) referred to above; "in bad times one may find who goeth forward, who laggeth behind" (vv. 527 ff.)—almost certainly, as theme and form seem to indicate a popular proverb; the notable passage on the pleader's plight when it is difficult to fight against truth and right, when the heart is in strife and the mouth must dissemble and guard lest an untoward word betray the heart's quandary, but still wit is never so keen as when in anxious doubt, and in some fold of the "rede-purs" counsel will be found, leading up to Aelfred's saying, "When bale is highest, bote is nearest" (vv. 667-700)—this personification of the mind and the heart at once suggests the fable of the "Belly and the Members" and the necessary concord between master and servant as in the Anglo-Latin *Romulus*;⁶⁹ the similitude of one supreme trick at wrestling being worth any number of poor ones (vv. 795 ff.) which goes back to a widespread tale, a variant of the one trick motive, which the Persian poet, Saadi,⁷⁰ a contemporary of the *Owl*-poet, relates so charmingly—in the tale an aged master with his 365th trick overcomes his arrogant pupil to whom he had taught his 364 other sleights—the elaborate and most interesting similitude of the useless spring applied by the owl to the nightingale (vv. 917 ff.); man must not lament aloud, he may bewail his sins, but when Christ is praised, let him cry out and sing loudly (vv. 979 ff.);—and two unmistakable proverbial phrases, "Hang up thine axe" (vv. 658) and "'Draw to thee,' quoth the carter" (vv. 1186); with probably the comparison of the owl to the hen in the snow. Further search will probably discover parallels or sources for some of these.

To turn to those examples which are expressly cited on authority, to several the term "vorbisne" is applied—a term which may be used of a proverb, aphorism, similitude, or parable. The first (vv. 98 ff.)

þarbi men segget a uorbisne
 "Dahet habbe þat ilke best
 þat fuleþ his owe nest."

⁶⁹ Hervieux, L., *Op. Cit.*, II, 615.

⁷⁰ *Gulistan*, tr. James Ross, rep. Camelot Classics, n. d.

is definitely linked up as here with the fable of the owl in the falcon's nest through its appearance in English and Latin translation of Bozon, not in the French, evidently an addition of the translator from the familiar current proverb, "hyt ys a fowle brydde that fylyzth hys owne neste," or from some version of the fable other than Bozon's.

Directly after the fable in the poem follows (vv. 127 ff.) a "bispel" which men say. There are really two. The second, that of the apple that betrays the tree it comes from, however far it trundles from it, is found in Marie (and perhaps her source), in Nicholas Bozon, cited in English, "Trendle the appel nevere so fer he conyes fro what tree he cam," and also in English in the Latin translation, "Trendul an appull never so ferre, hyt wyll be knowe fro wheyne he comyth." Atkins has commented on this in his note on the line and quoted the versions in his appendix on the fables. He has not specially commented upon the first "bispel" which appears in the poem as follows: (vv. 127 ff.)

Herbi men segget a bispel,
þe; hit ne bo fuliche spel;
al so hit is bi þan un gode
þat is icumen of fule brode
& is meind wit fro monne,
euer he cuþ þat he com þonne,
þat he com of þan adel-eye,
þe; he a fro nest[e] leie.
þe; appel trendli fro[m] þon trowe,
þar he & oþer mid growe,
þe; he bo þar-from bicume,
he cuþ wel whonene he is icume.

This egg appears in Odo not as a proverb or similitude, but as a part of the falcon's comment on the foul nestling, as in the *Romulus* and in the English, proving that Odo took it from his English source—"Of [eie; var. a ey, eye, on egge] hi the brohtte, of a thele he ne myhte."⁷¹ The point is important because the direct con-

⁷¹ Parallel in meaning is the Sanscrit proverb—"Bad crow, bad egg."
Also the Greek proverb—"κακοῦ κόρακος, κακὸν ᾠον."
Carr, Capt. M.W., *A Collection of Telugu Proverbs Together with Some Sanscrit Proverbs* (334).

junction of egg and appel in the *Owl* ties the *Owl*-poet to Marie—one suspects directly to Marie, or at least to Marie's source,

Il lur respunt, "Vus dites veir.
Legiere chose est a saveir:
de l'oef les poi jeo bien geter
a par chalur e par cover,
mais niënt fors de lur natur.
Maldite seit tels nurretur!"

Pur ceo dit hum en repruvier
de la plume del dulz pumier,
s'ele chiet sur un fust amer,
ja ne savra tant ruëler
qu'al mordre ne seit cuneüe,
desur quel arbre ele est creüe.
Sa nature puet hum guenchir
mes nuls n'en puet del tut eissir.⁷²

For it will be seen that the similitude of the apple directly follows in Marie as in the *Owl*.

The next quoted saying (v. 176) "'Wel figt þat well fligt,' says the wise" which has been found also in the *Proverbs of Hendyng* (77), is probably a popular proverb, but may also be linked with fable. The situation, with a special gift of physical dexterity and swiftness getting the better of strength and violence is precisely the same in the "Wolf and the Hare" in Odo⁷³ where the hare says, "Ego non pugno nisi cum pedibus, nisi fugiendo" to match the nightingale's "He fights well who flies well." It will be noticed that the nightingale makes a neat pun on the two senses of *fly*, as she has just boasted of her "castel god on mine rise" to be entered to her credit to match the owl's daring pun on *foliot*.⁷⁴

⁷² *Die Fabeln der Marie de France*, ed. K. Warnke, lxxix.

⁷³ Hervieux, L., *Op. Cit.*, IV, 230.

⁷⁴ Not sufficient attention has been given to this jibe of the owl. One recalls that the owl has charged the nightingale with singing of love by the bower to which charge the nightingale retorts that she sings of the highest things which lead men heavenward; the owl senses in the nightingale's reply a shrewdness akin to her own; she can express her disgust only by calling such singing *foliot*, recalling Bishop Foliot's commentary on *The Song of Solomon*, a poem the sensuous character of whose imagery the ascetic owl would reprobate as much as she does the seductive song of her adversary. Remembering then its allusive character, the use of *foliot* becomes highly significant besides being a delectable pun.

The next, a "uorbisne," is a similitude (vv. 245 ff.)—the owl keen of sight by night, blind by day, is like the evil man "that sees nought to no good and is so full of evil sleights that none may evade him and knows well the way of darkness and avoideth the light." One thinks at once of Deut. 28: 29, John 3: 19–20 and other Scriptural passages associating darkness with evil and the light with good, but also it is certainly striking how similarly in the fable of Cyrillus cited above⁷⁵ the owl's nocturnal habit is coupled with her natural disposition for evil and turning all things to evil, a reversal of nature,

"In nocte enim vides ut noceas caeteris quiescentibus, inquietaris ut rapias, universis dormientibus vigilas ut occidas. Inquietasti noctem sprevisisti diem, odisti lucem, pervertisti ordinem naturalem."

The next quoted saying is "a wise man's judgment and often repeated (vv. 289 ff.) that one shall not chide with the foolish or strive in yawning against the oven"—almost literally, as Wells notes, v. 412, of the *Proverbs of Alfred* "ne chid þu wyþ none sotte"—again repeated and referred to Alfred in v. 297 in an equivalent "let sots chide and go thy way," while the second line "yawn not against an oven" is evidently a popular proverb, perhaps still current, which reappears in Barrow's sermons as quoted in the *N.E.D.* which also quotes its Dutch equivalent *tegen een oven gapen*; and, as Atkins notes, in Ray's *Proverbs*. The last so-styled "uorbisne," one which, we are told, is "of old ivurne" is plainly a popular proverb, "node makeþ old wif urne" (v. 638). Here also may be included a quotation from the "old laze" that "yet lasteth" as a "sooth-saw" that (v. 1039 ff.) "man shall plough and sow where he weeneth later to mow somewhat good, for he is mad that soweth his seed where never grass springeth nor fruits." Neither Wells nor Atkins explains the reference. Atkins cites Galatians 6: 8, "For he that soweth to the flesh shall of the flesh reap corruption, but he that soweth to the spirit shall of the spirit reap life everlasting." Plainly by the "old laze" the poet does not mean the Old Testament. The reference is to the parable of the Sower or to that of the Wheat

⁷⁵ Graesse, J. G. Th., *Op. Cit.*, 93.

and the Tares. Atkins has certainly identified the current-sooth-saw in the *Proverbs of Alfred* (52-3)

Hwych so þe man soweþ

Al swych he schal mowe.

We reach now the sayings quoted upon the authority of Alfred—having already noted two passages from the extant *Proverbs of Ælfred* that have been placed in parallel with passages in the poem where Alfred's name is not mentioned. Of the sayings bearing Alfred's name, curiously enough, there is not one that is verbally parallel, few that are closely parallel in form of statement or in substance. The passages are vv. 236, 295, 301, 349, 570, 687, 699, 762, 942, 1072, 1225, 1271. The substance of 295 ff., already quoted without Alfred's name at 290 "avoid scolding and strife, let fools chide and go thy way" is a gnomic commonplace (See Atkins' note) and is paralleled twice in the *Proverbs of Ælfred*. The proverb at v. 687 "wone þe bale is alre-hecst, þonne is þe bote alre-necst" common though it is, is not in Alfred. So also (v. 762) "Ne mai no strengþe azen red," a motive appearing in several places elsewhere in the poem; vv. 942 ff. "Selde endeþ wel þe loþe, an selde plaideþ wel þe wroþe" for the second line of which parallels⁷⁶ appear in the *Distichs of Cato*, in the Icelandic Proverb Poem; (vv. 1072, 4) "Wel fízt þat wel specþ"; (vv. 1225 ff.) "ʒef þu isihst (er) he (*i.e.* an enemy, trouble) beo i-cume, his strenþe is him wel neh binume"; (vv. 1271) "eueruch man þe bet him beo, eauer þe bet he hine beseo; ne truste no man to weole to swiþe, þah he habbe ueole."

In brief, it appears that though several of these have their proverbial currency attested by parallels, in only two cases is there verbal similarity sufficient to establish identity or possible direct connection—the proverb, "When bale is highest, bote is nearest," undoubtedly, and very probably the passage in the *Proverbs of Ælfred* against chiding with fools. The others remain in a way problematic. It is true as is believed that other proverb collections bearing Alfred's name may have been in existence beside

⁷⁶ Paralleled in substance in the Sanscrit proverb—"When a man grows angry, his reason runs out."

Carr, M.W., *Op. Cit.* 925.

the one (or two or more conjoined) which we have. It is also true that the poet might perfectly well have tied Alfred's name on to any current proverb that served his purpose at the moment—but that of course is merely an *ad hoc* assumption. There is another possibility that does not seem to have been thought of, which can, at least, be advanced tentatively, though time does not permit its being examined fully. Attention has been concentrated in this matter upon the extant Alfredian proverb collection and others like it such as the *Cato* and *Hendyng*, or collections like the *Salomon and Saturn*, or other poems of aphoristic character. Why is it not possible that when the poet is quoting Alfred, he may be quoting not the proverb collection passing under Alfred's name but the fable collection, which certainly existed and passed under his name whether or not an actual Alfred, not the king, existed? To bring such an hypothesis within the range of credibility, it must be remembered that every fable properly carries a moral; that, moreover, the moral is itself often a proverb, or either the fable or the moral may give rise to a proverb and that often the moral is given further homilectic explication or the fable itself allegorized. The connection is indeed so close between fable and proverb that proverb was used to mean fable or parable, much in the same way as a play with a proverb title came in modern times to be called a *proverbe* in France. Thus Marie de France's fables from Aesop are "proverbs."

Or entendes pour diu singneur
 Comment Marie nos traia
 Des prouierbes, qu'ele troua
 D'Izopet, dont desus a dit
 Si entendre com ele dit.⁷⁷

And Cirillus gives the moral or motive of the fable as its *proverbium*. It may be objected that all the truths here involved are of the tritest sort. That is really not true of all—but in any case the significant fact is that, trite or not, the poet expressly quotes them on authority.

A review of the passages with this idea in mind affords the

⁷⁷ Hervieux, L., *Op. Cit.*, I, 735.

following evidence for what it is worth. No parallel for "He schuneth þat hine ful wat" (v. 236) appears though it might well fit in with a fable plot. The next two passages (so considered as having separate references to Alfred) are really continuous, (vv. 293-301)

At sume siþe herde [I] telle
 hu Aluerd sede on his spelle:
 "Loke þat þu ne bo þare
 þar chauling boþ & cheste ȝare:
 lat sottes chide & uorþ þu go."
 & ich am wis & do also.
 & ȝet Alured seide an oþer side
 a word þat is isprunge wide:
 "þat wit þe fule haueþ imene,
 ne cumeþ he neuer from him cleine."

The first citation, as noted above, has parallels in substance in the *Proverbs*. It is a curious thing that though the second is said to be "in another place," the two motives not so closely linked in necessary logical connection as to be likely to occur often in a natural conjunction should appear in a parallel conjunction in a fable of Odo's,⁷⁸

"Sic melius est expellere stultos et peruersos a societate, licet latrent per detractionem, quam coinquinari per eorum societatem. Ecclesiastico, xiii, Qui tangit picem, coinquinatur ab ea."

Odo, it may be added, we know used some English source at least in part. The next passage is as follows (vv. 349 ff.)

Vor hit is soþ, Alured hit seide,
 & me hit mai ine boke rede:
 "Eurich þing mai losen his godhede
 mid unmeþe & mid ouerdede."

For this passage—and it should be noted that it "*may be read in a book*"—a parallel offers in Walter of England's fable *De Ranis et Ydro*⁷⁹

⁷⁸ Hervieux, L., *Op. Cit.*, IV, 217.

⁷⁹ Hervieux, L., *Op. Cit.*, II, 326.

Omne boni pretium nimio uilescit (in) usu,
Fitque mali gustu dulcius omne bonum.

The parallel of the first line is striking in spite of the fact that its application in terms of the fable is different—though the owl would no doubt have joined with the frogs in pleading, *redde quietis opes*, in her disgust at the nightingale's "writeling."

The next passage (vv. 569 ff.) is not a trite commonplace.

Alured sede, þat was wis,
(he miȝte wel, for soþ hit is,)
"Nis no man for is bare songe
lof ne w[u]rþ noȝt suþe longe:
vor þat is a forworþe man
þat bute singe noȝt ne can."

It would be, one thinks, rather difficult to find parallels for this—it is not in the same category as bodily prowess set off against lack of prudence or wisdom. It is so pertinent to the owl's purpose that one might imagine it invented. But there is a fable from which it might directly derive in the Anglo-Latin *Romulus, De Volucris et Rege Eorum*,⁸⁰ the one which Marie used in her *Parlemens*. While deliberating the choice of a king, the birds heard the cuckoo calling at a distance. "Omnes vocem tam sonoram et claram laudabant. Sed avem que uocem emiserat ignorabant. Dicebant autem tante facundie et tam clare populi regimine dignam esse dum tamen actus at animum cantibus adequaret." The cuckoo despite his "cantus" proves neither "lof ne wurþ noȝt suþe longe." Tried out by the birds' messenger, the titmouse, he proves a very "forworþe" person indeed. The moral deals with the "miserum quemuislibet uerbi pomposum" instead of song, but the fable if in Alfred might readily have suggested the passage.

The proverb "when bale is highest," may be passed by as a common proverb. In v. 761 ff.

vor soþ hit is þat seide Alured:
"Ne mai no strengþe aȝen red."

⁸⁰ Hervieux, L., *Op. Cit.*, II, 553.

Alfred stands as authority for one of the main motives of the poem, which finds repeated statement elsewhere owing to the necessity the nightingale is under of defending her frailty of body by exalting the superiority of wit, skill, craft, cleverness, over brute strength or violence:

"It helpeth not that thou be too bold; I would fight better with shrewdness than thou with all thy strength" (vv. 171 ff.); "Why twittest thou me with my lack of strength and size and length . . . for I know craft and I know cleverness and therefore am I thus bold" (vv. 751 ff.);

to this is added the quotation from Alfred, and then a long exposition:

"Oft speedeth well a little cleverness when great strength had missed; with little strength through craft men may win castle and city, fell walls, unhorse brave knights. Wicked strength is little worth, but wisdom never becomes worthless. Thou mayest see through everything that wisdom hath no peer. A horse is stronger than a man but because it knoweth no wit, it beareth on its back great loads and hauleth before great teams, and suffereth both yard and spur and standeth tied at the mill-door, and it doeth what men bid, and because it knows no wit its strength may not save it that it bow not before a little child. Man bringeth it about through his wit that no other thing is his match. Though all strength at one were, man's wit yet more were—for man with craft overcometh all earthly creatures. So I with my song do better than thou all the year long. For my craft men love me, for thy strength men shun thee. Thinkest thou the worse of me because I know but one craft?"—

and thereupon follows the motive of one ability or sleight being better than many, if it is superior to them all. A number of fables might be adduced to parallel the main theme, *fortior est ars viribus*, as the fable of the thirsty crow has it in the Anglo-Latin *Romulus*,⁸¹ but the complete argument is quoted because while it follows no doubt traditional lines, as regards the comparison of the horse, it is possible to show that the poet for his part might have gotten it from fables. The famous fable which relates how the young lion, though warned by his father never to contend with man, goes in search of man and asks oxen, horse, and finally woodsman, whether they are men, puts his paw in the

⁸¹ Hervieux, L., *Op. Cit.*, II, 633.

wedged tree, is caught, and goes lamed and bloody to his father, does not appear in the early collections. In this fable, the horse says "I am not man, but he that bridled and saddled and tied me here, is man." But the motive is found in the "extravagant" and wholly delightful fable of the *Homuntio* (i.e., even a man, though small), *the Lion and his Son*.⁸²

When the lion-cub wonders that they must be exiled to escape the "snares of the little man," his father says, "Nequaquam est ita magnus nec tam fortis vt nos sed est nimis ingeniosus." When grown older the young lion despite warnings, goes forth to find man, "dum autem fuit per viam, repperit equum pascentem cum dorso exarato et costis scissis et ait ad eum: Quis inquit, hanc tibi fecit injuriam? Equus respondit: Homuntio ligat me, etc." and also less striking as a parallel is another example in the Anglo-Latin *Romulus*⁸³ in which the doe tells the faun how man, seemingly so weak as he descends from the horse, is to be feared because of his wit and craft, and the fable in Neckam⁸⁴ of the horse submitting to man to chase the stag and finding himself permanently enslaved.

The paired aphorisms at vv. 942 ff., "Seldom hath the hated man good ending and seldom pleadeth well the angry man," baffle the attempt to link them with fables though so suitable for fable motives. The saying, "He fighteth well that speaketh well" (v. 1072) is plainly modelled on the earlier "He fighteth well that flyeth well" (v. 176) and it would seem almost superfluous to cite the moral of the amusing story of the horse-sale in the Anglo-Latin *Romulus*⁸⁵ were it not so apt a description of the nightingale's situation. "Sic sapiens in periculo nonnunquam se adiuvat dum verba sua, quamvis ponderis realis minus habencia similitudini rationis prudenter adaptat."

For the sayings at vv. 1225, 1271, no parallels offer. The latter advising that one should be all the more cautious, the better off one is, nor should anyone trust to wealth, is paralleled in Odo's *De Cornice*,⁸⁶ "Item hoc exemplum ualet contra divites qui pro

⁸² Hervieux, L., *Op. Cit.*, II, 297.

⁸³ Hervieux, L., *Op. Cit.*, II, 611.

⁸⁴ Hervieux, L., *Op. Cit.*, II, 406.

⁸⁵ Hervieux, L., *Op. Cit.*, II, 555.

⁸⁶ Hervieux, L., *Op. Cit.*, IV, 180.

multitudine diuitiarum gloriantur; sed Dominus quandoque omnia aufert, et sic humiliantur." But as a matter of fact the passage is paralleled in substance in the *Proverbs*.

It is an interesting fact that in thus searching for possible parallels to these alleged sayings of Alfred, so many of such parallels as are discoverable are in collections associated with England and dating prior to the *Owl*. The fact is probably accidental. The point to be emphasized is that so much of the poem can be thus connected with fable literature; that is surely not accidental. At the same time it must be recognized that in the choice and distribution, the weaving together and vigorous naturalistic phrasing of the fable motives and moralities, the poet has displayed an imaginative power and a dramatic sense, an instinctive feeling for proportion and emphasis, a directness in appropriating a somewhat patterned mode to his own ends and converting it with natural freedom and sympathy, for which he must be accorded the highest praise and for which as has often been said, no parallel can be found till we reach Chaucer. Ker rightly called the poem miraculous.

One or two points still remain that call for brief mention. Several times in connection with details in the poem, the question of possible indebtedness to Alexander Neckam has been touched upon—the lines from *De Laudibus* contrasting the owl and the nightingale, evidently derived from Isidore, the bear and the shield and spear, which supposes an improbable confusion of separate passages and which can be better explained otherwise, the fox's trick of twisting and turning, copied all but one word from Isidore, his trick of hanging by the bough, the episode of the seduction of the knight's wife by the nightingale. This last alone remains as demanding attention, and with it the manner in which the enraged knight revenged himself upon the nightingale whose song had aided in the seduction of his wife by having the bird drawn asunder by four wild horses. These two are paralleled in the *De Naturis Rerum*. Alexander Neckam was a contemporary of the poet—a fact which holds whether the poem is dated in the 12th or 13th century. The work in question cannot be dated with precision. It may have been written comparatively late in life as he mentions in it one of his major works, the *Cor-*

rogationes Promethei.⁸⁷ In point of fact, however, no decision can be reached. But neither of these considerations of is any real moment. The really important point is that we can be certain that Neckam did not invent either statement. The *De Naturis Rerum* is a composite of borrowings. Thomas Wright lists Solinus, Cassiodorus, Aristotle, Pliny, Vergil, Lucan, Martial, Bernard, Silvester, Ovid, Boethius, St. Augustine, Juvenal—to which Isidore should be added. Considering the unique celebrity of the fox in beast-epic and fable as a master of sleights, and that in any variant of this fable or in fabulous nature lore, the range and variety of his sleights might be amplified, we can be certain that Neckam who copied Isidore for one of them, did not invent this trick of the fox's remaining "ramo alicujus arboris suspensa." Where Neckam found it, the poet found it. The same is true of the mode of death of the nightingale. As Hinckley pointed out,⁸⁸ the fact that Neckam found the story somewhere is indicated by his comment: "Sed o dedecus! quid meruit nobilis volucrum praecentrix instar Hippolyti Thesidae equis diripi."⁸⁹ The details in both the poem and Neckam are so picturesque that one unconsciously thinks there must be a connection between them. One must remember also that the poet is plainly in the rest of the story using either a source or sources different from Neckam's or a common source which included details Neckam omitted. It is also not to be forgotten that Neckam might have borrowed this detail from the poet; to suppose Neckam necessarily the source is mere assumption. If the question of indebtedness lay between the two, one would certainly in the premises regard it as a fanciful invention of the poet's to enlarge upon the severity of the knight, like the enormous fine of a hundred pounds to emphasize, as has been said elsewhere, the heinousness of the crime.

In Atkins' last article⁹⁰ the opening paragraph of which was quoted at the beginning of this chapter, the first section (the

⁸⁷ Wright, Thomas, ed., *De Naturis Rerum*, Introduction, xiii; John of Bromton's statement that it was popular at the end of the 12th century has no value as evidence.

⁸⁸ Hinckley, H. B., *P. M. L. A.* XLIV, 339.

⁸⁹ Atkins, J. W. H., Introduction, lxii, noted earlier by Ten Brink, *Di. Geschichte der englischen Literatur*, I, 253, note 2.

⁹⁰ *Aberystwyth Studies*, IV, 49.

others concern notes on the text, scribal errors in the C text, and a note on the J MS. and Thomas Wilkins) is concerned with the relation of the poem to the religious and didactic literature of the period of the poem—as he believes, in all probability, the opening years of the 13th century. His exposition includes three heads: (a) the poem “reflects the moralistic tradition in literature”; (b) “it does more than reflect the current views with regard to literature; it has also abundant traces of the actual religious thought of the time”; (c) “in yet a third way does the poem betray the influence of contemporary religious writings, and that is in the methods of exposition employed by the poet.” These points are certainly well taken—with the modification that many of his ethical truths and illustrations he found ready made for him in fable literature. But just as certainly in no single regard is there anything which Atkins adduces that he could not admit at once to be just as characteristic of the 12th century as of the 13th—the homilectic element, rhetorical devices, or what not—indeed of the 12th century much earlier than its close, as might be readily demonstrated from homilectic literature in English alone, much less in Latin.

Of much greater interest than homilectic commonplaces or methods of exposition—themes ultimately patristic or later, such as the Seven Deadly Sins, woman the weaker vessel, the winning of heaven by suffering and penance rather than by mystical anticipation of its joy—are what seem to be references to doctrines in which the philosophic element stands out through their theologic cast, doctrines of a kind rather loosely but conveniently termed “Neoplatonic,” such as the frequent allusions to Nature, to the law of nature, to the imperative impulses that find their rise in nature. One is immediately reminded of *De Planctu Naturae* of Alanus de Insulis († 1202) and his conception of Nature as a beautiful being, vicar of God in the world, who, as Raby⁹¹ has phrased it “surveying the pure ideas of Nous, stamps the mark of species on things, clothing things with form, gubernatrix of the visible world, controlling, under God, its ordered processes, maintaining that constancy of organic genera-

⁹¹ Raby, F. J. E., *A History of Christian-Latin Poetry*, 300 ff.

tion by which like proceeds from like, performing thus the function of the world-soul as conceived by Plato in the *Timaeus* and handed down by the Neoplatonists to the Middle Ages. By "Neoplatonists" one means, of course, in particular, Plotinus and those that follow him, deriving from him or developing similar lines of reasoning in individualized forms. The influence of Alanus appears, it will be recalled, in most striking and dramatic form in Jean de Meun, and that of Plotinus directly in the 15th century in formalizing a new phase of courtly love, which, indeed, already existed in an inchoate form in the 14th, perhaps was already initiated in the 13th. In the *Owl*, the influence of Alanus—one cannot help recalling how notable a part birds play in the portrayal of the sovereign being, Nature—appears in recognition of the overpowering force of natural impulses in man—a relationship not heretofore noted. The doctrine of love, he advances, through the nightingale—with which he was evidently in sympathy—startles us. The humane and rationalistic viewpoint he has attained he then applies through the owl to the wife unhappily married. It may be pointed out that any too hasty interpretation of the poem which equates the nightingale as the advocate of love (by the owl's charge of illicit love and marital infidelity) with a partiality as representing the "new verse" toward courtly love doctrine, while the owl represents the ascetic and moralist in regard to this question is contradicted by their discussion. The nightingale champions the maiden who in innocence has yielded and condemns marital laxity (vv. 1340–42), while the owl takes the part of the abused wife and exclaims (vv. 1543 ff., vv. 1561 ff.) that she is well justified in being unfaithful to him. A fuller discussion of this theme will be found below.

One point alone remains. It might be thought that the subject of the verse of the poem might be taken up here as a general feature of the poem, which in a sense it is. But the truth of the matter is that the verse of the poem, individual, idiomatic (as combining old and "new"), flexible, a ready instrument, admirably handled with instinctive mastery, is not a decisive criterion of date as between the close of the 12th and the beginning of the 13th century. No evidence can be adduced to prove it so. We know nothing of what an English poet might achieve at this

time. If anything, the evidence might run in the other direction. In the same MS. as the *Owl* are several poems of diverse type and subject in which four-stress verse is used, pointing to its varied application in English for a considerable period before the date of the MS. This subject is further discussed, incidentally, in the next section. To the question of the determination of a specific date for the poem we now turn.

III

DATE

The critical study of the poem has run an intermittent course over nearly a hundred years. And within the last thirty years it has been the subject of concentrated effort on the part of scholars using the full range of specialized method and aided by a greatly increased store of knowledge concerning medieval literature in general. But the problems of date and authorship are not yet solved.

The date, easily first in importance and much less difficult, has, even recently, in special investigations or as incidentally mentioned, been placed within periods varying from a century to five months. Sometimes no more is ventured than an assumed half-century, an approximate central date, or a possible inferior limit. At various times by various scholars, the poem has been ascribed to the reigns of Henry II, Richard I, John, Henry III, Edward I.¹

¹ The tabulation which follows is merely illustrative, not exhaustive.

Stevenson, J., ed. *The Owl and the Nightingale, a poem of the 12th C.* for the Roxburghe Society, 1838. Stevenson probably follows Warton "not later than Richard I."

Warton, T., *History of English Poetry*, ed. Richard Price, 1840, I, 24, "not later than Richard I."

Madden, Sir Frederick, ed. Warton's *History of English Poetry*, 1840, I, 26, "beginning of the reign of Edward I."

Wright, Thomas, ed. *The Owl and the Nightingale*, 1843, also *Biographia Brit. Lit.* Anglo-Norman Period, 439, "reign of John."

Mätzner, E., *Altenglische Sprachproben*, 1867, I, 40, "reign of John."

Hazlitt, W. C., ed. Warton's *History of English Poetry*, 1870, I, 39, "not later than the reign of Edward I."

Morris, R., *An Old English Miscellany*, 1872, xi, "between 1244 and 1250."

Wülcker, R., *Paul und Braune Beiträge*, 1874, I, 68-70, "reign of John."

Koch, John, ed. *Chardry's Josaphaz*, 1879, xlv-xlvii, "reign of John."

Börsch, J., *Über Met. u. Poet. der Altenglischen Dichtung Eule und Nachtigall*, 1883, 6, "between 1218 and 1225."

Ten Brink, B., *Early English Literature*, tr. H. M. Kennedy, 1889, 218, "reign of Henry III."

Morsbach, L., *Mittelenglische Grammatik*, 1886, 10, "ca. 1220."

Morley, H., *English Writers*, 1888, III, 331, "middle of the 13th C."

Skeat, W. W., *Specimens of Early English*, 1890, I, 177, "not later than the time of Henry III."

Brandl, A., *Grundriss der germanischen Philologie*, Paul, 1893, II, 622, "about 1220."

While attributions long since proved erroneous (chiefly to the middle of the thirteenth century) may still be found in incidental or casual mention, the majority of scholars who are informed regarding the poem tentatively assume, though on evidence plainly indecisive as resting on grounds of probability, that the date of the composition falls within the first two decades of the 13th century, or possibly, at a stretch between Henry II's death, 1189 and, say, 1220.

To prove even this assumption correct beyond doubt would be in itself most desirable and a genuine satisfaction. But to ask for something more is not merely to gratify a purposeless punctilio. We need only to remind ourselves of the extreme importance of dating with some precision such a poem—"The most miraculous piece of writing," Ker calls it, "or if that is too strong a term, the most contrary to all pre-conceived opinion, among the medieval English books,"² especially in view of the conclusions dependent upon it with reference to the history of its period. For this is certain—that it is the earliest English poem extant of some length and of indubitable artistic merit written in the

Courthope, W. J., *A History of English Poetry*, 1895, 136, "early in the reign of Edward I."

Jusserand, J. J., *Histoire littéraire du peuple anglais*, 1896, I, 230, "probably of the 13th C."

Saintsbury, G., *A Short History of English Literature*, 1898, 54, "cannot be later than the middle of the 13th C."

Körting, G., *Grundriss der Geschichte der englischen Literatur*, 1905, 94, "probably between 1218 and 1225."

Ker, W. P., *English Literature Medieval*. (Home University Library), 180, "a hundred or one hundred and fifty years before Chaucer."

Schofield, Wm. H., *English Literature from the Norman Conquest to Chaucer*, 1906, 427, "about 1220."

Gadow, W., ed. *Das Mittelenglische Streitgedicht Eule und Nachtigall*, 1907, Berlin Diss., Palaestra, 1909, 12-13, "the second or third decade of the 13th C."

Wells, J. E., ed. *The Owl and the Nightingale*, 1907, xxiv, xxv, "1216-1225."

Breier, W., *Eule und Nachtigall*, *Studien zur englischen Philologie*, 1910, XXXIX-XL, 160, "shortly before or after 1200."

Hall, J., *Selections from Early Middle English*, 1920, II, 566, "end of the reign of Richard I."

Atkins, J. W. H., ed. *The Owl and the Nightingale*, 1922, xxxviii, "1199-1217."

Legouis, E., *Histoire de la littérature anglaise*, 1924, 89, "middle of the 13th C."

Wyld, H. C., *A Short History of English* (3rd ed.), 1927, 104, "1247-1250."

Hinckley, H. B., *The Date, Author, and Sources of the Owl and the Nightingale*, *P. M. L. A.* XLIV, 341, "between September 1, 1178 and the following February."

² Ker, W. P., *English Literature Medieval*, 181.

"new" verse, and at that, not in stumbling imitation of French models but with an independent mastery of its chosen meter, the short couplet, in a modification which succeeds in harmonizing successfully with the French pattern, elements traditional in the native popular verse. In respect to this point alone, not to instance others, an assured date within reasonably narrow limits would enable us to speak with some degree of certainty of the progress of the assimilation of English and French (not forgetting Latin as active element) while now we have to be content with *a priori* speculation and possibly, almost certainly, a wholly false perspective.

In this feature of its peculiar historic importance, the poem ranks with such documents in their several periods and relations as the *Song of Canute*, the *Brut*, certain early lyrics, the *Cuckoo Song*, the *Ancren Riwle*, *Horn* and *Havelock*, the miscellany in Harleian MS. 2253. Certainly in the case of such a poem as this, no prepossessions should be allowed to sway one's judgment. To assign to a work a preferential date to fit in with some theoretic notion of the probable course of the development of literature of its time may be under certain circumstances the only thing one can do in a given case; certainly it can hardly be regarded as a satisfactory procedure. But to view with prejudice, however, and to dismiss as untenable, evidence that places a work at a date that does not fit in with one's theoretic reconstruction of historic development is to prove oneself hopelessly uncritical.

The Owl and the Nightingale itself affords an illustration of how an erroneous date may help in building up and confirming a seemingly consistent and plausible historic reconstruction. In Legouis' recent most valuable history of English literature, Legouis sees England at last plainly evidencing profit from the tutelage of France toward the close of the 13th century. He speaks of *Havelock* and *Horn*, and then refers to the *Owl and the Nightingale*, a "curious poem" as their predecessor. Accepting a date long currently assumed, he places it *ca.* 1250, "a half century before *Horn* and *Havelock*," notes what he deems its defects, but characterizes it as the first poem of some substance to imitate French exemplars successfully. In point of fact, apart from the impossible date, the process of assimilation thus successfully

achieved in the latter part of the 13th century really was achieved a half century or perhaps a century before. The translation of French romances into English, it may be added, played not a primary but a secondary and contributing part in a process already long on its way.³

We have not only to remember that no prejudices and prepossessions should sway our judgment as regards date. There is another point of equal and obvious importance. We certainly forget the danger into which it is only too easy to slip, in treating early periods, of reasoning confidently on the basis of such extant documents as we have, quite forgetting that no one can tell how many works have perished quite unnoted and unknown. This is true not merely of such assertions as that a particular period is barren or that nothing of note was written in it, or that only literature of a particular kind, religious for example, was composed within it. It is also true as regards substantial quality and artistic merit. Offhand, for example, suppose that the *Brut* had perished completely, could anyone have the temerity to conjecture that about 1200 a parish priest using a French poem as his chief source could have written an epic of its dimensions and individual character? Or that an Orm could have planned and carried out no small part of an immense work written in faultlessly smooth septenaries? Or that lyrics intricate in structure and showing a matured mastery of prosody should have been written near 1200 at a time when England was assumed to be but little advanced, if at all, in her adoptions of "French" modes? How often does one reflect that our knowledge of early Old English verse, with the testimony it affords of a rich vernacular literature, popular and learned, the illumination it casts upon the intellectual and emotional qualities of our forebears, depends solely upon

³ Legouis, E., *Histoire de la littérature anglaise*, 89ff.

"Dès le milieu du XIII^e siècle on rencontre un curieux poème, en dix huit cents octosyllabes, *Le Hibou et le Rossignol*, qui est une de ces disputoisons ou tensons en si grand honneur dans la poésie de Provence et de France . . .

"Antérieur à *Havelock* et à *Ilorn* d'un demi-siècle, ce poème est la première production correcte de l'anglais sous l'influence française . . . le premier spécimen où l'on trouve la forme étrangère assez bien assimilée pour que les mots indigènes s'y placent non seulement avec justesse mais encore avec quelque agrément."

its preservation in a few codices piously assembled at the close of the 10th century? How we should have misjudged those ancestors of ours—assenting perhaps to Taine's picturesque rhetoric, or Lowell's offhand dismissal of everything before Chaucer.

Likewise here, too, in the problem before us, we must guard ourselves against unconscious prepossessions or deliberate conclusions based upon seeming probabilities. A good part of the extant literature, pertinent to the discussion of the *Owl* and of its general period, is found in the two MSS. that contain it, and they go back to a common original, that is a single original, barring a few additional poems in the later of the two. Suppose instead of that one manuscript, we had three or four only, of as diversified content. To suppose this original MS. an exception and an isolated one is impossible. Even its contents alone are sufficient to attest the existence of a body of verse of varying kind from which this particular selection was drawn. Taking the English poems—after the long and brilliant *Owl* comes the didactic poem *Long Life* with its highly elaborate lyric pattern; *An Oreisun of Our Lady*, also sophisticated in its pattern; next *Will and Wit*, gnomic wisdom in a four-stress alternate rime stanza on two rimes; *Doomsday* and *Death*, didactic in substance, lyric in form; *Ten Abuses*, that long-lived commonplace, in its nondescript free verse; and finally the lively, delightful, homely miniature homily, the *Litel Soth Sarmun*, with its sportive exercise of pretty much all kinds of verse that were going. Unmistakably these poems point to a wide variety of verse from which they were drawn and to an experimentation in various meters with varying success. And it may be added that the limitation to the religious and didactic in their selection is no proof that verse of lighter kind did not exist. That verse would not be committed to permanent preservation, or if preserved might readily be destroyed. *The Owl and the Nightingale* is preserved for us, no doubt, not because of its artistic merits, but as maintaining a decorous level and containing profitable matter. The *Cuckoo Song*, quite likely, was saved by its Latin doublet *Perspice Caelicola*. How much indeed we may have lost we may too readily see when we consider "*Murie it is*," when we think of the Rawlinson minstrel book with its songs eloquent even in their shreds and tatters, when we

recognize the providential good luck that saved the Harl. MS. 2253. The early Marian hymns, and *Long Life*, on the one hand, the *Rawlinson Fragments* on the other, all of the first half of the 13th century, prove surely enough that the "new" verse had attained both polite artistry on the one hand and popular lyric freedom on the other.

The conditions governing the determination of the date of the *Owl* are briefly these. The poem is preserved in two MSS., Cotton Caligula A IX (C) and Jesus Coll. Oxon. 29 (J). In both volumes are bound works which were originally independent; in C a version of the earlier form of Layamon, in J a chronicle of late date. The two MSS. proper contain several poems in common but not in the same order along with others not common to both: (C) *La Vie de Seint Josaphaz* and *La Vie de Set Dormanz* by the Anglo-Norman poet Chardry (ca. 1200), an Anglo-Norman chronicle (not in J), the *Owl and the Nightingale*, seven English poems just spoken of, and a debate by Chardry, *Petit Plet*; (J) the *Passion of Our Lord*, the *Owl and the Nightingale*, *A Moral Ode*, *Sinners Beware*, the *Woman of Samaria*, *Fortune*, the *Five Joys of the Virgin*, etc., including six of the seven poems in (C), then five pieces in French, *Toby*, a *Doctrinal*, and the three works of Chardry found in C.

The two MSS. differ in age. Both on paleographic evidence date 13th century, C in the first half, J in the second half.⁴ The two MSS., so far as concerns the poems common to both, have been conclusively proved to go back to a common original. That the *Owl* appears in two extant MSS. is extremely fortunate, not alone for textual reasons, but also as confirming the fidelity in substance of C, the earlier version, to the common original of both—for the differences between the two versions are scribal and not verbal (except trifling omissions and the like), a point of

⁴ Richard Morris, *An Old English Miscellany* dated C too late by mistaken association with J. Criteria of the date of J are its inclusion of the *Luve Rune* of Thomas of Hales, a Franciscan, who must have written after 1224, if a Franciscan when he wrote it, and is reported to have flourished ca. 1250, and the verses "Hwon holy chireche is vnder fote," contain a reference to St. Edmund Rich which dates it (in part at least) after St. Edmund's death in 1240 and probably after his canonization in 1248. (Child, C. G., in the *Memorial Volume to Charles Frederick Johnson*, 101.)

vital importance as assuring the validity of references of use in determining the date. Except for this, J is not of any importance in this relation. Attention centers upon C. The portion containing the *Owl* can safely be assumed to be of the first half of the 13th century on paleographic evidence. Further it contains an Anglo-Norman chronicle of the Kings of England which stops at the accession of Henry III (1216), the accession being noted in its closing words. The chronicle could, of course, have been written at any subsequent period in Henry III's reign. But it was probably written shortly after the accession, as one could expect, for it is notable as Koch pointed out in his edition of Chardry's poems⁵ that contrary to the practice of the scribe who wrote the French works (as of the scribe who wrote the English works) the rest of the concluding page of the chronicle is left blank as if for further continuation. Further, as the poem in English is in the special hand and followed by a third poem of Chardry's in the same hand as Chardry's poems preceding the *Owl* and the chronicle, it would seem that the *Owl* was copied at the same time as the Anglo-Norman chronicle. And no matter whether the chronicle was copied shortly after 1216 or not, at all events it seems plain that the C version of the *Owl* in any case dates after 1216. But what of its original? Is it demonstrable⁶ that this C version is at least the copy of a copy of the original, so that that original may be with confidence dated at least as early as 1200–1220, with some likelihood that it is earlier rather than later in the range, or that it was written before 1200?

So far external evidence yields a conclusion useful as far as it goes but affords at best only an approximate inferior limit, leaving the superior limit quite indeterminate. Turning to internal evidence, a linguistic analysis of the text shows an original dialectal basis somewhat obscured by copyists, but pointing unmistakably to a southern original. This is quite in agreement with other evidence as to the home of the author, but affords no aid as regards date, for dialectal criteria cannot date a work conclusively within fifty years or more, even if a holograph.

⁵ Koch, John, *Chardry's Josaphaz*, xlvii.

⁶ On the MSS. and the points summarized here, see Wells, ed. Introduction, xiii ff.

Perforce, therefore, we must next turn to references within the poem and their testimony when interpreted in their proper historical relation. The validity of these references is certified, it will be remembered, by the agreement of C and J; they were derived from the original and were not due to later rescension of copyists.

In v. 1088 ff. is a reference to "king Henri." Telling the story of the knight's barbarity toward the nightingale, the nightingale says:

vor riȝte niȝe ich was him loȝ;
 he dude me his oȝene shome,
 ac al him turnde it to grome.
 þat underyat þe king Henri:
 Jesus his soule do merci!
 He let forbonne þene kniȝt,

Until 1929 this reference was accepted without question as evidence that the poem was written after Henry II's death in 1189—as plainly not applicable to Henry III who died in 1272. Conselquently in connection with the tentative acceptance on external evidence of a date in or near 1200–1220, attempts followed to explain other references in the poem as inspired by events in the reigns of Richard or John, or even the earlier years of Henry III though some excluded the latter on the ground that a poet would not risk confusion of a reference to a Henry dead with a living Henry on the throne. There was general agreement, as there could not but be and there still is, that the Henry of the reference was Henry II, a conclusion that indeed had long before recommended itself to Thomas Wright and Ten Brink, many years before the modern stages of the inquiry.⁷

⁷ Wright, Thomas, *Early English Poetry, Ballads, and Popular Literature of the Middle Ages*, 1843, X, iii, "I confess I am inclined to think the king referred to was Henry II."

Ten Brink, B., *Die Geschichte der englischen Litteratur*, 1899, 254, "Reifliche Erwägung der sprachlichen und litterarischen Momente führt dazu, die Dichtung in die erste Hälfte der Regierungszeit Heinrichs III (1216–1272) zu setzen, so schlecht zu dieser Annahme auch das Factum zu passen scheint, dasz Heinrich II ohne jedes unterscheidende Beiwort einfach bezeichnet wird als: King Henri, Jesus his soule do merci (1091–2)."

Wells, J. E., *The Owl and the Nightingale*, 1907, xxii, "In view of the fact

It is essential to observe that attempts to fix upon a more precise date on the supposition that the date must be looked for after Henry II's death have been wholly unsuccessful. The determination of a date depends upon a series of allusions, or what seem to be such, and their satisfactory interpretation. Most of them are slight enough, lend themselves to various equally acceptable interpretations—may, indeed be general and not specific in reference, and so of no value at all. A satisfactory date must explain acceptably all of those that seem specific, and find corroboration or at least avoid contradiction when others that may or may not be specific are examined.

The allusions or passages construed as allusions which have been adduced in the course of the inquiry are as follows:

The owl (vv. 150 ff.) asks the nightingale

"Whi neltu flon into þe bare
& sewi [w]are unker bo
of briȝter howe, of uairur blo?"

that the C MS. was written in the first half of the 13th century, the King Henri (1091-2) must be held to be Henry II, unless there be the unusual meaning of a wish for the king's soul after he may die, or unless 'Henri' be other than a king of England."

Gadow, W., *Das Mittelhenglische Streitgedicht Eule und Nachtigall*, Palaestra, 1909, LXV, 13, "Die Erwähnung des King Henri (Jesus his soule do merci (1091); damit kann nur Heinrich II gemeint sein)."

Breier, W., *Eule und Nachtigall*, *Studien zur englischen Philologie*, 1910, XXXIX-XL, 159, "Während also einerseits Heinrich III (1216-72) noch nicht zur Herrschaft gelangt sein konnte, ist es andererseits sicher, dasz der v. 1091-2 erwähnte Heinrich, der nur Heinrich II († 1189) sein kann, bereits gestorben sein mußte."

Koch, J., *Anglia Beiblatt*, 1910, XXI, 230, "Dazu kommt noch bekannte v. 1091-92 in ON selbst, worin auf einem 'King Henri, Jesus his soule do merci' hingewiesen wird worunter wir jedenfalls Heinrich II († 1189) zu verstehen haben."

Hall, Joseph, *Selections from Early Middle English*, 1920, II, 566 ff. "The reference in the poem to passing events are mostly vague or obscure; only the passage 'þe king Henri, Jesus his soule do merci,' 1091-2 which refer to no other than Henry II fixes a superior limit of A. D. 1189."

Atkins, J. W. H., *The Owl and the Nightingale*, 1922, xxxv, "The allusion contained in v. 1091 must therefore be connected with Henry II († 1189)."

Hinckley, H. B., *The Date, Author, and Sources of the Owl and the Nightingale*, *P. M. L. A.*, XLIV, 329-335. His whole proof is based upon the supposition that the king referred to is Henry II.

"No," answers the nightingale, "you have sharp claws . . . you are trying to trick me. Shame on you." Into this has been read a reference to "ordeal by battle," its reprobation by the church and condemnation by the Lateran Council in 1215, and its alleged discontinuance in 1219 (it was in use long after, as a matter of fact). But the passage will bear no such interpretation. There is no wager of battle. The owl merely invites a comparison of hue and appearance, and the nightingale refuses to give her adversary a chance to catch her in her claws as is the owl's habit.

At v. 905 begins a long and important passage in which the owl asks why the nightingale stays at home instead of playing missionary to Ireland, Scotland, Norway, and Galloway. The nightingale, at a loss for a time before this shrewd attack, finally responds most cleverly by arguing the uselessness of any such attempt and at v. 1016 asserts that though any good man come as one (or "some," but the context indicates one person) did a while ago from Rome to teach them to follow good ways and do away with bad ways, he might better sit still, for he would lose all his trouble. This whole passage is of preeminent importance. Attention naturally fastened upon the identity of the person referred to. Börsch suggested Cardinal Guala and his mission to the Scotch in 1218, but several considerations, the lateness of the date (too late in any case but rendered the more unfitting by the fact that the mission is said to have happened a "while" ago), the character of the mission, the fact that four countries are named and there is no particular reason for singling out Scotland, unite to contradict such a possibility. No other explanation, it may be added, had been made for the passage that would tie it up with a date after Henry's death.

In v. 1091 is found the reference to "king Henri" already spoken of, and to be further considered shortly in connection with a new suggestion.

In v. 1730 ff. is a striking allusion to breaking the "peace." This Börsch explained as possibly referring to the "peace" and festivities of 1220 attending Henry III's second coronation. A date so late is, obviously, extremely improbable in view of the external evidence, and a "peace" that was nominal, not actual, does not fit the reference. Hall's suggestion that the good peace

maintained in 1194–98 by Justiciar Hubert Walter, during Richard's absence, in the same way as being merely a period of quiet due to good government, does not harmonize with the character of the allusion and its specific reference to the king's peace, issuing from him and directly conferred by him. No other explanations have been offered. Wells passes over the allusion as meaning the "peace" of the bird community, or the peace of the neighborhood of Dorset; that is, the king's peace in the current traditional use. Atkins makes no comment.

Further and finally after the derisive comment of the owl upon the nightingale's cursing (vv. 1179 ff.), the nightingale in her reply refers to the prevalence of excommunication throughout the land. This Börsch associated with the frequent excommunications of the early 13th century, or more particularly, the interdict of 1208 and John's excommunication in 1212. There is no specific connection apparent—and excommunications are so frequent that the reference may apply as well or better to other periods—among these, that period to which the composition of the poem is referred in this study.

A new phase of the inquiry began in 1919 with an article by Hinckley.⁸ Atkins in a note in the *Cambridge History* had questioned whether v. 997 ff. might not refer to Cardinal Vivian's visit to Ireland and the North under commission from Pope Alexander in 1176–77, but did not pursue the point, and thought Cardinal Guala's mission in 1218 more probable. Hinckley found support for the mission of Vivian as source of the allusion in the terms of his commission, explained the nightingale's diatribe as inspired more particularly by the character and behavior of the people of Galloway specially in evidence at the time, and fixed upon a period between Christmas 1176 and September 21, 1178, as covering the date of the poem, on the ground that Peter of St. Agatha, Vivian's successor at the latter date, bore credentials that did not include "Norway" as Vivian's had.

A date so early flatly challenged accepted views and involved instant objections, that Hinckley at once attempted to anticipate.

⁸ Hinckley, H. B., *The Date of the Owl and the Nightingale*, *Modern Philology*, XVII, 63.

First of these was the apparent allusion in the poem to King Henry (by general acceptance Henry II) as dead—"Jesus his soule do merci." This Hinckley met by asserting that a king might so be prayed for while alive. Further, the mission referred to is spoken of as having taken place "once," "a while ago"—but six months or so would be enough, he thought, to permit the poet to use the word "wile." Gadow and Felix Liebermann, he recalled, had proposed a certain Nicholaus capellanus archidiaconi (1209) and Nicholaus submonitor capituli de Gudeford (1220), mentioned in documents of Salisbury as probably one person and possibly the Nicholas of the poem and its author. If so, it would merely mean that this Nicholas wrote the poem in his youth, and it would seem quite possible that he had been a young and unimportant member of Vivian's escort in some subordinate capacity. The article closed with a discussion of linguistic evidence of no evidential value in determining the date.

A view so revolutionary could hardly meet with ready acceptance, in its entirety, at least. Vivian certainly seemed an eligible candidate as the papal envoy referred to—but not the date. Atkins in his edition accepted Vivian, but emphatically rejected the date; the reference to King Henry could not possibly mean anything else than that King Henry was dead. Hinckley, seven years later,⁹ took up Atkins' flat rejection of his contention that mercy could be invoked upon a living sovereign, adducing evidence which will be taken up below. To the support of his date he adds little that is material as it involves the assumption for which there is no proof, that Nicholas was a member of Vivian's retinue. He more narrowly defines his date by explaining (vv. 745-6)

"Ich graunti þat [w]e go to dome
tofore þe [sulfe Pope] of Rome."

as an allusion to Peter of St. Agatha's summoning delegates to the Lateran Council of March 5, 1179, which would confine the covering period approximately between September 1, 1178, and

⁹ Hinckley, H. B., *The Date, Author, and Sources of the Owl and the Nightingale*, P. M. L. A., XLIV, 329.

February 1, 1179. This is really laying too much weight upon the lines which are nothing more than the familiar expression of willingness to submit a point at issue to the Pope himself, so sure is the speaker of his case. Further, Atkins¹⁰ had queried whether the use of the word *foliot*, only found here and apparently meaning "foolishness," might not be a satirical reference to Bishop Foliot, Becket's opponent. If so, Hinckley points out the reference would have proper effectiveness only during his lifetime before his death in 1187. Again, the reference to the use of arms for good and ill in vv. 1369-72 might seem to point to Henry's prohibition of the bearing of arms by private citizens in times of peace, dating about July 1, 1175, but shortly lapsing, necessitating that the allusion, to have force, must have been composed near that date. Here again is a commonplace, and too ready an illustration of things that may be turned to good or evil, to bear such a special construction. And, finally, Hinckley's explanation of the severity of the fine exacted for the murder of the nightingale as connected with Henry's injustice and severity in prosecuting infractions of the forest law in 1175 after granting license to hunt and fish in 1173-4, seems decidedly not in point. The explanation is too ingenious—that while the penalty is severe for murder, it is lenient for an infraction of the forest law, and that Henry is thus shown to be, while "a champion of love, innocence, and beauty," at the same time "merciful in his severity." There is really no necessity to suppose the forest law as concerned at all. The knight's crime is a wanton murder of an alleged accomplice in his wife's seduction, not an infraction of the game laws. The heavy penalty stresses the enormity of the murder of a bird so loved and honored.

Hinckley also takes up the argument of Atkins for a later date on the assumed indebtedness of the poet to Alexander Neckam. This need not be summarized here as the question of that relation is taken up elsewhere.¹¹ Mr. Hinckley's views regarding the identity of the poet and his most interesting discussion of the sources and analogues of the poem are elsewhere noted.

¹⁰ Atkins, J. W. H., Additional Notes to his text, 202 of his edition.

¹¹ Hinckley, H. B., *P. M. L. A.*, XLIV, 340.

At present, therefore, the matter stands thus that the determination of the date turns upon vv. 1091-2.

þat underyat¹² þe king Henri:
Jesus his soule do merci.

If the phrase "Jesus his soule do merci" necessarily implies Henry's death, then the poem must date after 1189. If it does not, as Hinckley contends, then we are left free to look for a date before as well as after 1189. Hinckley's evidence must be reviewed in greater detail.

In his first article he offered no effective evidence, resting his contention on the fact that prayers for the souls of the living were offered during the Middle Ages and that prayers must have been offered for the soul of the reigning king. In his second article, he endeavors to substantiate his contention by specific examples, classified into prayers or requests for prayers for the writer or reader of a book, prayers for both soul and body of the living, and other prayers for the souls of living persons. These really do not, however suggestive in a general relation, give effective aid to his argument; they do not clinch his point in the specific relation called for. No one possibly would or could deny for a moment that prayers asking God's mercy on living persons have always been a familiar daily Christian practice—prayers for oneself, for persons near one, one's family, friends, benefactors, prayers for one's superiors—and for persons in general who are ill or in trouble or in peril on sea or land, both as regards their physical and spiritual welfare. The trouble with our understanding of the phrase lies in this that this interjected invocation at once, quite without reason, suggests the familiar invocation of God's mercy upon a person dead—the word "soul" immediately suggests this, especially to us today with our regrettable habit of associating souls with, and deferring concern about them to the vague period after death, whereas to the medieval mind the soul was the person, not the fleshly body, and an immediate daily concern and anxiety. Moreover, the phrase instantly reminds one, and one instantly classes it with such phrases we know from

¹² Surely the proper reading, "perceived, took account of."

our reading as "God have mercy on him," "God rest his soul," used of persons just before or after death, and especially the impressive closing clause of the death-sentence, "and may God have mercy on your soul."

This phrase which the poet uses is expletive, interjectional. What should be cited in parallel with it are such varied invocations of God's mercy in casual intercourse as are found in early drama—frequent, it will be recalled in Shakespeare—in long established traditional use then and familiar down to our own day. Such are "God have mercy," "Lord have mercy," "Lawk a mussy," "God's mercy," "Mercy on us," simply "Mercy," "God have mercy on us" (Twelfth Night, III, 4, 152), "Bless my soul," "God bless him," "God bless the King," "God bless our sovereign liege, the King," "God save the King." Such invocations on oneself, on a person or persons addressed, are the more common. As used of a third person or persons they are less common, but none the less are and were used. Surely considering that prayers for one's sovereign asking God's grace and mercy and guidance were a part of every loyal subject's daily duty and practice, that masses and liturgies were said for him in his lifetime, the naturalness of such an invocation—especially when a rime for Henry was needed—seems apparent enough. Here also is it not pertinent to recall that in many places in the Scripture God is spoken of as having mercy on or showing mercy toward living persons, or promising to do so where the word implies not forbearance and forgiveness, but all the blessings and benefits, bodily or spiritual, which flow from God's bounty and loving-kindness?¹³

It might be noted that the expression "*do mercy*" collates with *fio* and *ago* used in Latin liturgies as seen in

¹³ One might be tempted to see in the less usual "*do merci*" (apparently from the French) a suggestion of continuous action "exercise, show," as distinguished from a specific act of judgment and forbearance, which might be implicit in "have mercy." But this is unlikely—*do* might also be used of specific occasions as in "Drihten do me merci of this dede," St. Marherete, 22, when *mercy* has its basic sense of "forbearance," "forgiveness," not "compassionate care, goodness, grace."

Fiat domine missericordia tua super nos quemadmodum sperabimus in te.¹⁴

Gratias tibi agimus domine sancte pater omnipotens.¹⁵

A few examples may be given in illustration and proof. Benedictions and prayers for the living:

God eow gehealde (God keep you)¹⁶

And I also do take my leve here,
Of all þis blyssyd good company
praynge þour grace bothe fere and nere
On us to spede þour endles mercy (vv. 313–316)¹⁷

Now, lorde, for þi tender mercyes all
Reconcyle me to grace, & to þi mercy call! (vv. 1262–3)¹⁸

Innumerable other examples may be adduced from the early dramas, as one might expect; however, other varieties of literature also yield abundant illustration:

Jesu whom þe serve dayly
Uppon þour enemys gyff þou victory.¹⁹

And Saynt George the gode Knyght
Over þour ffomen geve þou myȝt.
And holy saynt Kateryne
To þoure begynnyng send gode fyne
Saynt Christofre botefull on see and lond
Joyfully make þou see England.²⁰

¹⁴ *The Stowe Missal*, ed. Sir George F. Warner, Bradshaw Soc., XXXII, 17.

¹⁵ *Ibid.*, 19.

¹⁶ Charter of William I to the City of London in *Select Charters*, ed. William Stubbs, 83.

¹⁷ *Ludus Coventriae*, ed. J. O. Halliwell, *The Birth of Christ*.

¹⁸ *Digby Mysteries*, ed. F. J. Furnivall, *Christ's Resurrection*.

¹⁹ Quaritch, Bro. Bernard, *A Short Sketch of Liturgical History and Literature*, 61.

²⁰ *Ibid.*, 63. The two excerpts quoted above are from the Talbot Prayer-book and the verses are thought to have been written in the book shortly after Talbot's imprisonment in 1429 by some unknown person who found the book.

Now, ladi, preye þi sone on hih
To alle cristene he graunte merci! (vv. 85-6)²¹

Sire Edward of Carnarvan, Jhesu him save ant see!²²

Besides general prayers for all persons at all times, and special prayers for special persons at special times, there were general prayers for special persons such as the kings and nobles. Indeed it would be strange if this were not so, when one recalls that the peace and the continuance of the church's safety rested upon the king and nobles and particularly upon the king. Hence we find general prayers for the king such as

Benedictio pro rege—

Omnipotens dominus det tibi copiam sue benedictionis qui te populo
suo preesse uoluit dono sue miserationis—Amen

Dextera sue potencie inimicorum tuorum colla prosternat et te inuictum
hostium feritate depressa; pacifice regnare concedat. Amen

Et cum eo sine fine te feliciter regnare contingat in celis a cuius accepisti
munere pietatis regnandi dominatum in terris—Amen

Quod ipse prestare dignetur!²³

Te rogamus audi nos
ut regi nostro et principibus nostris pacem et ueram
concordiam atque victoriam donare digneris.²⁴

Prayer for the king's conquest of his enemies:

Iesus Crist ful of grace
Graunte oure kyng, in euery place,
Maistrie of his wiþerwynes. (adversaries)²⁵

Prayer for the victory of the king in the Scottish wars:

O Dei potentia! te pro tuis peto!
Anglis in auxilium veni vultu laeto!
Regis causam iudicas, gratiam praebeo!²⁶

²¹ *Minor Poems of the Vernon MS.*, ed. F. J. Furnivall, *Mary's Miracles*.

²² *Political Songs of England*, ed. Th. Wright, *Song on the Execution of Simon Fraser*—In this invocation Sire Edward is alive; the meaning of see is "have in regard."

²³ *The Canterbury Benedictional*, ed. Reginald Maxwell Woolley, 123-4.

²⁴ *The Holyrood Ordinale*, ed. Frances Eeles, 208.

²⁵ *Adam Davy's Dreams about Edward II*, ed. F. J. Furnivall, E. E. T. S., vv. 83 ff.

²⁶ *Political Songs of England*, ed. Th. Wright, 172.

General invocation for the king's safety:

Ly reys, ke Deu garde!²⁷

Up to this point not sufficient stress has been laid upon the prayers for the king in church services. That there were such prayers as those which have already been cited is evident, but their number and exact phraseology are important as regards their effect upon those conducting the service. In the English church, Palmer tells us in his *Origines Liturgicae*, the number of collects for the king amounted to as many as seven. In the English liturgy the collect is prefaced with the words "Let us pray." "In primitive times the deacon generally made the proclamation, and he not only directed the people to pray, but informed them what they were to pray for. Thus, in the liturgy of the orthodox church of Alexandria, the prayer which corresponds to *our collect* for the king was thus introduced. The deacon proclaimed aloud, 'Pray ye for the emperor,' on which the whole people prayed three times, crying, 'Lord have mercy upon him.'"²⁸ If, as has been suggested, the poet of the *Owl* held some minor office in the church and was daily taking part in the service, it would be most natural for him to think of "Jesus his soule do merci," or some equivalent expression when there was mention of the king, and especially when he was hard pressed for a rime.

If then we are not limited by this phrase to a date subsequent to Henry II's death, we may, as Hinckley did, consider the probability of a date within Henry's reign. At this point, the reader may check and ask why, if possibly referring to a living king, may the phrase not refer to Henry III and the date be looked for in his reign after 1216. This conjecture may at once be dismissed when it is recalled that the external evidence makes a date within even the earliest years of Henry III's reign extremely improbable. Furthermore, the evidence to follow points to Henry II and cannot be interpreted as fitting the reign of Henry III.

Assuming then that Henry II is the Henry referred to and that

²⁷ *Ibid.*, 319, v. 7.

²⁸ Palmer, Rev. William, *Origines Liturgicae*, II, 36 ff.

we may look for a date within his reign, we pass on to other evidence for a date and a period of composition not yet considered. And first—when, at the conclusion of the debate, the other birds gather and, hearing the nightingale's shrill song, believe her victorious, the riot and confusion they make and the consequent wrath and threatenings of the owl are stilled by the wren (exercising still here her age-old fabulous sovereignty), who interposes with these words (vv. 1730–34):

Hwat! wulle ȝe þis pes tobreke,
an do þanne [kinge] swuch schame?
ȝe[t] nis he nouȝer ded ne lame.
Hunke schal itide harm & schonde,
ȝef ȝe doȝ griȝbruche on his londe.

Commentators on this passage as we have seen endeavor to point out a particular "peace" to which it can acceptably refer, or suppose it simply the traditional "king's peace" while the line, "ȝet nis he nouȝer ded ne lame" puzzles those who have Henry III in mind, as either irony or an empty compliment. Is it possible to now show that these verses refer specifically and most fittingly to a very notable "peace"; namely, that of Henry II? The evidence which I shall offer must in the first place demonstrate that the defining conditions to be inferred from the passage on the one hand, and those derived from a study of historic records on the other, identify the "peace" of the poem and that established by Henry, and in the second place that the character of the reference is, in decisive fashion, appropriate only to the reign of Henry II, not to that of his predecessors or successors.

The term the "king's peace" has been subject to changing applications in accordance with the change and development in the conception it denotes. From the very earliest times the idea of law has been closely associated with the idea of peace. If a man breaks the peace, he puts himself outside the law; he is an outlaw. This general peace, arising out of the common consent of the group, and not derived from its ruler, exists at all times and in all places; it is the peace of the people, of the community. Beside this general peace, each individual has his own special peace, the breaking of which injures him. Thus, "if you slay A in

B's house, you must pay A's 'wergeld,' the price of the injury done him as weighed beside your reason for slaying him, but not this alone—you have also broken B's peace or "mund" through committing the act in his domain, and you owe B compensation, the amount of which will vary with B's rank." The king, like other men, had his "peace," but in the process of time, by eminence of rank and through his function as the source of law and protection for his subjects, the king's peace devours all other peace. This final development reached its consummation in the reign of Henry II.²⁹

Even in Anglo-Saxon times, beside the "frith," or general peace, the "king's peace" had grown into definite recognition and had become somewhat extensive in scope. In the law of Edward the Elder, there is a command to the Witan regarding the maintenance of public order that they should be in the king's fellowship, and love that which he loved and avoid those things which he shunned both on land and sea.³⁰ As the personal dignity of the king increased, the idea of the king as the fountainhead of justice became more distinctly recognized—the greater breaches of the peace arising either from refusal to pay fines, or from commission of offenses for which the fines were inadequate were punished by outlawry; the offender thus had become a public enemy to the law and to the peace; his adversary might wreak vengeance upon him and even ordinary hospitality shown him was a breach of the law. Thus he must remain outside the protection of the law until the king should again restore him to his peace as a member of the community. But the "king's peace" was not the only guarantee; the hundred also had its peace, but the king had his own special peace which, like that of the church, "cyrice-frith," was not of the country at large, but a special guarantee of safety for those under his special protection.³¹

"The 'grith,' a term which came into use at the time of the Danish invasions, is a limited or localised peace, under the special

²⁹ Maitland, Frederick William, *The Constitutional History of England*, 108.

³⁰ Stubbs, William, *The Constitutional History of England*, I, 176.

³¹ Stubbs, William, *ibid.*, I, 179 ff.

guarantee of the individual and differs little from the protection implied in 'mund' or personal guardianship which appears much earlier, although it may be regarded as another mark of territorial development." When the king becomes sovereign and "mundborh" of his people, the ideas these terms denote lose their connection with the ancient national peace of which the king is guardian and pass into closer relation of which he is the source. "The peace is now the 'king's peace'; and though the 'mund' and the 'grith' still retain their limited local application, they entitle their possessor to no higher rights; they do but involve the transgressor in more special penalties; the *frith* is enforced by national officers, the *grith* by the king's servants."³²

This special peace is extended to places where the national peace is not fully provided for. For example, the four great highways that crossed the island from east to west, from north to south, came under the king's special protection. "Crimes committed upon the 'King's Highway,' a term which was soon extended to all public roads leading from town to town, were within his immediate jurisdiction and considered violations of his supremacy, notwithstanding any franchise enjoyed by the lord through whose territory the road passed."³³ "The king's presence imparted peace not only to his residence but to a considerable district around it; 3m., 3 furlongs, 3 acre-breadths, 9 ft., 9 palms, and three barleycorns, constituted a mystical radius the verge of which was reckoned from the town or mansion where the king held his court; within this ambit the protection afforded by royalty must remain inviolate." Within certain periods and on holidays the king's peace was effective throughout the entire realm. The week of the ceremony of the coronation was such a period, the three great festival seasons of the year, Christmas, Easter, and Whitsuntide. Finally the "king's peace" could be bestowed by "his word and will," "by his hand," or "by his writ," or "by his seal."³⁴ But no conception of benefit to the com-

³² Stubbs, William, *ibid.*, I, 181.

³³ Palgrave, Francis, *The Rise and Progress of the English Commonwealth*, II, 284.

³⁴ Palgrave, Francis, *ibid.*, II, 284.

munity seems to have entered into the understanding of the term. "The circle within which injury or disturbance was to be compensated was a privilege to the king, a support to his dignity, a lucrative perquisite that he and his immediate surroundings should be free from disturbance."³⁵

The process by which the national peace merged with and became lost in the king's peace is almost imperceptible; after a long process of time, we arrive at a period when people conceived of all peace and law dying with the old king and of its being revived by a proclamation of the new sovereign. "National officers now execute their functions as king's officers and executors of his peace; the shire and hundred, although they call the peace their own, act in his name; the idea gains ground and becomes a form of law; offenses against the law become offenses against the king and the crime of disobedience becomes a crime of contempt to be expiated by a special sort of fine, 'oferhyrnesse,' to the outraged majesty of the law-giver and judge."³⁶

William the Conqueror took over the institution as it was handed down in Anglo-Saxon codes and in customary use. But he, his descendants, and the Angevin kings as well, expanded its significance. According to Hoveden, the Conqueror, in the fourth year of his reign, summoned from all the counties of his realm, men instructed in national laws, twelve from each county, to put on record a body or customary of 38 articles which were henceforth received as the laws of Edward the Confessor. "The first article, as usual then and long after in codes, charters, and even parliamentary petitions, provided for the peace and immunity of the church; the second provided for the 'king's peace' with its variety of penalties in the West Saxon law, the Dane law, and the Mercian law."³⁷

In William's reign much difficulty arose from the fact that the subjugated English tried to rid themselves of their Norman overlords, and many assassinations took place. On this account, therefore, the Conqueror incorporated in his code the following clause:

³⁵ Jeudwine, J. W., *Tort, Crime, and Police in Medieval Britain*, 101.

³⁶ Stubbs, William, *The Constitutional History of England*, 182 ff.

³⁷ Stubbs, William, *Lectures on Early English History*, 50.

I will that all men whom I brought with me or who have come after me be in my peace and quiet, and if any of them has been killed, his lord shall have the homicide within five days if he can, but if not, he shall begin to pay me 46 marks of silver as long as the substance of that lord shall hold out, and when his substance fails, the whole hundred in which the murder has been done shall pay in common what remains.³⁸

Thus the Conqueror placed his Norman followers under special protection; injuries committed on them were injuries against him and their death or injury would have to be accounted for to him for it was his peace that was broken and the guilty man lay at the king's mercy. "Some time after the Conquest all these special protections were disused, but were replaced by a general proclamation of the 'king's peace' which was made when the community assented to the accession of the new monarch; this first proclamation was considered to be in force the remainder of his life so as to bring any disturber of the public tranquillity within its penalties."³⁹

The more general designation, "king's peace," seems to have been used in the Charter of Henry I, the bestowal of which is mainly an acknowledgment that the English had been wrongly treated by William Rufus and an undertaking that it should be so no more. It states: "I place firm peace in the whole kingdom and enjoin that it be kept from this day."⁴⁰ Here is one of the first proclamations of the "king's peace" still extant. "Its importance lies in the fact that offenses committed between the expiry of the late king's peace and the proclamation of a new king's peace were not regarded as breaches of the king's peace or of the public law. The peace proclaimed in Henry's charter is the general peace of the kingdom; not any special protection of places or persons by the king's special peace but a general undertaking that the law shall be enforced upon all breakers of it. Of course, the doctrine involved the necessity of making the inter-regnum between the late king's peace and his successor's as short as possible; in fact, the nation at a very short distance

³⁸ Stubbs, William, *ibid.*, 71.

³⁹ Palgrave, Francis, *Op. Cit.*, II, 285.

⁴⁰ Stubbs, William, *Select Charters*, 101, art. 12, "Pacem firmam in toto regno meo pono et teneri amodo praecipio."

from the court would not have heard of Henry's coronation, the hurry had been so great that only a few magnates had been able to assemble at all."⁴¹

Stephen, upon his accession to the throne issued a charter which included "a declaration of the peace in much the same purpose as the proclamation of the peace at the accession of a new king, in accordance with the promises made at the coronation, and following the precedent set by both the Conqueror and Henry I."⁴²

The Domesday book states that peace is given by the king's seal; this practice which is not noticed in Anglo-Saxon laws continued in the protections granted at a later period although such special guarantees ceased to afford any privilege after the general law of the king's peace had been established. "All the immunities arising from residence within the verge or ambit of the king's presence—from truces, from handselled protection of the king—were then absorbed in the general declaration of the peace upon the accession of the new monarch. This custom was probably introduced by Henry II. It is not consistent with the laws of Henry I which, whether an authorized code or not, do exhibit the jurisprudence of that period, but it is wholly accordant with the subsequent trend of the proceedings of the Curia Regis."⁴³

Before the end of the 12th century there had been effected a great change—a simplification in the conception of the king's peace. This apparently took place thus. Under the Norman kings the mode of bringing a criminal to justice was called an appeal (*appellum*). This word was not used as it is today to imply the transfer of a case from one court to a superior court for review, but meant an accusation brought by a person who had been wronged—whose goods had been stolen, for example, or who had received bodily injury. It seems that the king's justices permitted the appellor to employ the words "in the king's peace" whenever he wished and did not permit the appellee to take exception to them—in other words they did not allow him to contend that though he might have committed theft, or assault, or homi-

⁴¹ Stubbs, William, *Lectures on Early English History*, 120.

⁴² Stubbs, William, *The Constitutional History of England*, 182.

⁴³ Palgrave, Sir Francis, *Op. Cit.*, II, cvff.

cide, still he had not necessarily broken the king's peace. As a result of this practice, we find that any crime, any deed of violence can be construed as a breach of the "king's peace" and the criminal can be brought into the king's own court. Further, under Henry II, we find a new criminal procedure growing up beside the appeal—procedure by way of presentment or indictment. In accordance with this procedure, a crime is no longer an affair between the accused and his victim—it is a wrong against the people, and the king as the people's representative.⁴⁴

In brief, then, the "king's peace," developing from an earlier stage as a royal prerogative ensuring the king's tranquillity over a limited area and time, broadened into a normal safeguard for order during the king's lifetime throughout the realm, and became a system for dispensing justice, a form of law, and the formula "king's peace" one whose specious interpretation might controvert any crime of violence into a breach of the peace resting in the king.

The point of moment to us here is the fact that it is definitely in the reign of Henry II that the "king's peace" becomes a synonym for the public peace in general, as contrasted with its residuum of denotation to imply special protection granted to particular persons or localities. This Henry definitely and personally accomplished by a determinate policy. Further, it is to be noted that he accomplished it not by a slow and gradual process, cautiously adjusted to receive final acceptance. Popular recognition of respect due the king's peace had naturally varied with the strength of the sovereign: in the reigns of weak kings like Stephen, the "king's peace" was regarded lightly while with strong kings like Henry I and Henry II, it became invested with dignity and authority. There is no need to emphasize Henry II's strength of character, personal force, power of imposing his will on others. That from his early years he had a great reputation is apparent from the chroniclers of the time. The *Anglo-Saxon Chronicle* says that when Stephen was dead "þa was þe eorl beionde sæ and ne durste nan man don oþer bute god for þe micel

⁴⁴ Maitland, Frederick William, *Op. Cit.*, 109.

eie of him."⁴⁵ Robert of Torriigny likewise, "Interim pax summa erat in Anglia, timore et amore Henrici ducis, quem omnes venturum et regem non dubitabant."⁴⁶ During the interregnum there actually was peace though no provision had been made to ensure it till reproclaimed by the incoming king. But Henry was not alone a man of strong character. It is often said that he was naturally a lawyer and a business man.⁴⁷ His reign, in Stubbs's phrase, initiates the reign of law.⁴⁸ He set to work from the beginning of his reign to place order on a permanent basis and to make the return of baronial arrogation of power impossible. But what especially stands out is the series of enactments, following one another within a brief series of years designed to strengthen and make absolute the power of the throne and to insure the maintenance of order, a veritable "king's peace." These are the Assize of Northampton which included an oath of fealty from all Englishmen, 1176; a return of all crown tenements, 1177; reorganization of the Curia Regis, 1178; the establishment of judicial circuits, 1179—directly designed to enforce the king's justice and maintain his peace—and the Assize of Arms, 1181.

These enactments, following upon the rebellion of his sons and Eleanor, powerfully affected and improved the country—especially the institution of the circuit courts which touched intimately the daily life of persons high and low in every part of the realm. Richard, the King's Treasurer, in his famous *Dialogus de Scaccario*, says that Henry after the rebellion treated the conquered with unheard-of mercy; few suffered loss of their goods and none of their life and condition, and further "when peace was restored, after the shipwrecked state of the kingdom, the king took steps to renew again the times of old. He chose discreet men and divided the kingdom into six parts, so that the itinerant justices (*judices errantes*), should pass through it and re-establish the rights of which the people had been deprived. They made their authority felt in every county and administered justice to

⁴⁵ *Anglo-Saxon Chronicle*, ed. Benj. Thorpe, R. S., 385.

⁴⁶ Roberti de Torigneio, *Chronica*, ed. R. Howlett, R. S., 181.

⁴⁷ Stubbs, William, *Select Charters*, 21.

⁴⁸ Stubbs, William, *ibid.*

those who thought themselves wronged, thus saving both trouble and expense to the poor.”⁴⁹

Henry did not merely inaugurate an effective instrument, and trust it to take care of itself. He saw to it that the course of justice was swift and severe; offenders were promptly brought to account for their misdeeds against his peace, and punishments were such as to discourage further offenses. Jealous of the integrity of his courts, he kept his eye constantly on his judicial system and frequently changed the number and character of his judges, seeming to see clearly that the chances of corruption and oppression were too tempting for the sort of men he was educating, the judges and lesser officers of the court, including the lawyers. Further, it must be remembered that besides supervising the work of his itinerant justices, he had reorganized the Curia Regis, and reserved for his own hearing in council the cases in which this court had failed to do justice.⁵⁰

Besides perfecting his system of courts in order to maintain the peace of the land, Henry II had another motive. He was eager to have cases brought into the courts of the itinerant justices because such appeals brought him added revenue. Therefore, he labored incessantly to increase the popularity of litigation as a means of settling disputes by increasing the efficiency of his courts and by choosing justices of unquestioned integrity. The logical outcome of these efforts was that they earned for Henry the confidence of the English people as well as the designation of “Leo justitiae.”⁵¹ Encomium of Henry II has not been rare in any age, but by far the most appropriate tribute to Henry comes from the lips of Ranulf Glanville, the reputed author of the *Tractatus de Legibus*.⁵² The Preface to the treatise comments upon the jurisprudence of Henry II. “How justly—how dis-

⁴⁹ *Dialogus de Scaccario*, ed. Hughes, Crump, Johnson, 119—Igitur, post naufragum regni statum pace reformata, studuit iterum rex auita tempora renouare et, eligens discretos viros, secuit regnum in sex partes vt eas electi iudices, quos errantes vocamus, perlustrarent et iura destituta restituerent. Facientes ergo sui copiam in singulis comitatibus, et hiis qui se lesos putabant iustitie plenitudinem exhibentes, pauperum laboribus et sumptibus pepererunt.

⁵⁰ Stubbs, William, *Select Charters*, 23.

⁵¹ Joannes Saresberiensis, *Metalogicus*, 84.

⁵² Translation of Glanville, John Beames, Esq., xxxvii.

creetly—how mercifully—he who loves peace and is the author of it, has conducted himself toward his subjects in the time of peace, is evident, since the Court of his Highness is regulated with so strict a regard to Equity, that none of the Judges have so hardened a front or so rash a presumption, as to dare to deviate, however slightly, from the path of Justice or to utter a sentence, in any measure contrary to the truth. For there, indeed, the power of his adversary oppresses not the poor Man, nor does either the favor or credit of another's friends drive any person from the seat of Judgment." Therefore, with these facts before us, it seems not inappropriate to conclude that with the perfection of Henry's system of courts and with his rigorous enforcement of the law, even the most unruly subjects would have little or no inclination to break the peace. The peace of Henry II takes its peculiar character from the sovereign himself, who is its author and its source; it is not the peace that arises from the fear of a people for a despotic monarch; it is the peace that emanates from the agreement between sovereign and subject when both are desirous of obtaining the same end; namely, public peace.

Let us now turn to a consideration of the circumstances set forth in the poem, especially the nightingale's reply to the wren's suggestion that they stop useless threats and proceed to judgment:

"Ich an wel," cwaþ þe niȝtegeale,
 "ah, wranne, nawt for þire tale,
 ah do for mire lahfulnesse.
 Ich nolde þat unrihtfulnesse
 me at þen ende ouerkome:
 ich name ofdrad of none dome." (vv. 1739-44)

"I agree," she says, "not because of the shame attending a breach of the peace which you speak of, but because of my law-abiding nature. I have no wish to have unrighteous behavior put me in the wrong in the end. I have no cause to fear any judgment."

Thus far it has been argued that the peace referred to as "this peace," a breach of which will result in condign punishment,

"harm and schonde," finds full and satisfactory explanation in the peace rendered significant and practically realized by the legislation and personal attention of the king. Furthermore, the king himself is mentioned (there can be no doubt of the emendation, generally accepted which restores the word "kyng," omitted in both MSS.)—he will be shamed, the harm will fall on you if you commit "grip bruche" in his land.

A significant point is to be noted here. It will be seen that the wren in the passage under comment exclaims, "Will ye break *this* peace?" Why the demonstrative *this*? If the old customary "king's peace" were meant, the article which is quite as good metrically would be used. One must conclude that there was a special reason for the stronger demonstrative, that a special peace is meant, and this is to be looked for in the peace that was through practical enforcement the peace of Henry, truly the "king's peace," due to his enactments and assiduous watchfulness—one moreover, the full significance of which was clearly apparent to a poet who discloses his familiarity with the law.

And further, in the verses immediately following (1739–44), the nightingale, in agreeing with the wren's suggestion to submit the quarrel to judgment, virtually places herself on record as one entirely in accord with the prevailing respect for law and order, a respect instilled by the king's constant watchfulness and severity towards offenders.

We seem to hear echoes of these verses in the *Chronica* of Roger of Hoveden—those who enjoy the king's peace are also to maintain it:

Hi qui pacem regis habent, vel manu vel brevi ei fideles existant, ideoque summa necessitas est eis, ut eam inviolabiliter custodiant erga omnes; nec ob securitatem pacis adeptam detineant rectitudines vel servitia dominorum suorum sed nec vicinorum; quia non est dignus habere pacem qui non vult observare eam.⁵³

Those who did not keep the "king's peace" were summarily dealt with; neither rank nor wealth thwarted the course of justice as we can readily see in the case of a rich citizen who, since he had

⁵³ Roger of Hoveden, *Chronica*, ed. William Stubbs, R. S., II, 231.

committed robbery and had been apprehended, could not escape the penalty of hanging even though he attempted to bribe the judges:

Inter caeteros vero qui capti fuerant; captus fuit quidam nobilissimus et ditissimus civium Lundoniarum qui nominatus erat Johannes Senex. Qui cum per iudicium aquae se mundare non posset, obtulit quingentas marcas argenti domino regi pro vita habenda. Sed qui ipse per iudicium aquae perierat noluit denarios illos accipere, et praecepit ut iudicium de eo fieret et suspensus est.⁵⁴

In order to still further discourage wrongdoers, Henry provided in his enactments at the Assize of Clarendon in 1166 that jails be built:

Et in singulis comitatibus in quibus non fuerint gailloae, fiant in burgo vel in aliquo castello domini regis, vel de bosco ejus si prope fuerit, vel de alio bosco propinquiori per visum servientium regis, ad hoc ut vicecomites in illis possint illos qui capti fuerint per ministros et servientes custodire.⁵⁵

Further, the passage says, "he is neither dead nor lame." There is no need to labor over the phrase as if it contains a cryptic reference to young Henry, crowned 1170, deceased 1183, in contrast to his living father. The phrase bears all the marks of being a current saying, the words being bound together for dramatic reinforcement. The obvious meaning is "for he is very much alive and on the alert." How appropriate this is to the indefatigable monarch, is apparent not only from the serious tributes to his energy in affairs to be found in the chronicles, but also in the lively pictures of his court and the exhaustion of his courtiers in trying to keep up with him.⁵⁶

If the agreement of this passage with the circumstances of the reign of Henry II has been made clear, it is in order next to show that it is not appropriate to reigns of his successors—his predecessors naturally need not be considered both as already covered by the argument, and as, in any case too early for the composition of the poem.

⁵⁴ Benedictus Abbas, *Gesta Regis Henrici Secundi*, ed. William Stubbs, R. S., I, 156.

⁵⁵ Roger of Hoveden, *Op. Cit.*, 249.

⁵⁶ Map, Walter, *De Nugis Curialium*, tr. Frederick Tupper, M. B. Ogle, 4 ff.

In the case of Richard, whose education and interests were predominantly continental, the fact is familiar that he cared little or nothing for England save as a source of revenue for his wars and crusading adventures. The reforms which Henry instituted carried over into his reign, but, spending as he did somewhat less than one year out of the ten of his reign in England, he in no way impressed his own character upon the national administration. Immediately after Richard left for Palestine, the realm was placed in the hands of two bishops, Hugh, Bishop of Lincoln, and Longchamp, Bishop of Ely. Divided rule is never effective, and it was not long before violent animosities broke out between the two prelates and threw the whole kingdom into combustion. Longchamp, having insinuated himself into the good graces of Richard to such an extent that the king had conferred in addition to the justiciarship, legatine powers from the Pope, could ill brook sharing the power of the realm with Hugh, practically set him aside and ruled the commons and nobles with arrogance and ostentation. Though Richard tried to curb his power, Longchamp pretended to know the mind of the king better than the emissaries from the monarch and completely disregarded his mandates. John, disgusted with the small share he had in the government, summoned to Reading a council of the nobility and prelates which cited Longchamp to appear before them to answer for his conduct, at which juncture the Bishop fled to France where he leagued with the French king and it was only through the authority of Queen Eleanor and the English Council that the consummation of his malicious enterprises was frustrated. Disorders in the kingdom were common; the coronation ceremonies were scarcely over before an attack was made upon the Jews of the realm. Richard, though indignant, seems to have been content to order Glanville to quell the disturbance, but the mobs in the city had got beyond control of the law and the rioters' fury had not spent itself until the next day. While Richard deprecated the outbreak, he had no sense of the gravity of the affair, or of the justice and protection due to the Jews. We are told that the few offenders who were punished suffered only for the damage done to Christian property.⁵⁷ The consequence of this

⁵⁷ Benedictus Abbas, *Op. Cit.*, II, 84.

criminal laxity was that outbreaks of similar character broke out shortly in most parts of the country.⁵⁸ The internal disorders of the realm reached their height in 1196 when one William Fitz-Osbert, called Longbeard, gathered around him a band of ruffians, estimated at 52,000, who formed a conspiracy to destroy the city and when summoned before Hubert, the Chief Justiciary, he came so well attended that no one dared to accuse him or give evidence against him; the Justiciar discovered the impotence of the law, and contented himself with exacting from the citizens hostages for their good behavior.⁵⁹ Since the reign of Richard I does not seem noteworthy either for the respect shown the law or for the vigorous enactment thereof, I do not think one would be warranted in assuming that the "peace" mentioned in verses 1730–34 is referable to the reign of Richard I.

Nor can the allusion refer to the reign of John, the despotic character of whose rule was ill-calculated to instil in the minds of the lawless fear or respect for the peace of the realm. Equally odious in both private and public life, he affronted the barons by his insolent conduct and enraged them by his tyrannies which, along with the dark conjectures regarding his complicity in the murder of his nephew,⁶⁰ fomented discontent among all ranks of men. The inevitable effect of such lawless practices was that the nobles and the lower classes made common cause together; their demand for the restoration of their privileges is a voluminous commentary not only upon John's government in general, but also upon the particular sort of tyranny enacted by him. The English people demanded, especially, that the free course of justice be not interfered with; for example, "the king's courts of justice were to be stationary and no longer follow his person; they were to be open to everyone and justice no longer to be sold, refused or delayed by them. Circuits were to be held regularly every year; the inferior tribunals of justice, the county court, sheriff's turn and courtleet, were to meet at their appointed time and place and no person was to be put upon trial from rumor or

⁵⁸ Ramsey, Sir J. H., *The Angevin Empire*, 269–70.

⁵⁹ Matthew of Paris, *Chronica Majora*, ed. H. L. Luard, R. S., II, 418–19.

⁶⁰ Matthew of Paris, *ibid.*, II, 480.

suspicion, alone, but upon evidence of lawful witnesses.⁶¹ The chroniclers who epitomized the character of John with such words as *quam nullus pejor fuit* had in mind the disordered state of the realm upon which state the chronicles are far from being reticent.⁶²

Further, the allusion in no way accords with the times of Henry III—apart from the improbability, on external evidence, that the poem was composed even in the early years of his reign. The king's peace was neither regarded nor respected in the reign of Henry III. During the king's minority, the licentious and powerful barons had by violence enlarged their powers so that they could be ill-restrained by law; as a result the people no less than the king suffered from their outrages; they overpowered their weaker neighbors and invited all lawless people to enter their retinue and live upon their lands and protected them in their depredations. The law was made of none effect; a striking case was that of Fawkes de Breauté, raised to an exalted position by John; when thirty-five verdicts were at one time found against him on account of his violent expulsion of so many free-holders from their possessions, he came to the court of justice with an armed force, seized the judge, who had pronounced the verdicts and imprisoned him at Bedford Castle; then he levied open war on the king. A contemporary historian tells us that men were never secure in their houses, and that whole villages were often plundered by bands of robbers though no civil wars then prevailed in the kingdom. In 1249, some years before the insurrection of the barons, two merchants of Brabant came to the king at Winchester and told him that they had been despoiled of all their goods by certain robbers whom they knew because they saw their faces every day at his court; that like practices prevailed all over the kingdom, and travellers were continually exposed to the danger of being robbed, bound, wounded, and murdered, and that the robbers committed their depredations with impunity, because the ministers of justice themselves were in confederacy with the robbers and that they for their part, instead of bringing matters

⁶¹ *Magna Charta*, Clauses 38, 39, 40, 52.

⁶² Matthew of Paris, *Op. Cit.*, II, 639-40.

to a fruitless trial by law were willing, though merchants, to decide their cause with the robbers by arms and a duel. The king, provoked at these abuses, ordered a jury to be enclosed and to try the robbers; the jury, though consisting of twelve men of property of Hampshire, were found also to be in the confederacy with the felons and acquitted them. Henry, in a rage, committed the jury to prison, threatened them with a severe punishment, and ordered a new jury to be enclosed, which, dreading the fate of their fellows, at last found a verdict against the criminals. Many of the king's own household were discovered to have been participants in the guilt.⁶³

In brief, Henry III was not strong enough to restrain his turbulent barons, nor was he able to direct the justices who composed the courts. Hence we find Bracton, in his massive work, *De Legibus et Consuetudinibus*, denouncing in quotations from St. Augustine and the Old Testament judicial incompetence and judicial corruption. Such conditions as these I have outlined would have been impossible in the reign of Henry II.

We have reached the conclusion that the poem was written during the reign of Henry II, and that the peculiarly definite allusion to "this peace," a breach of which would do shame to the king who is neither "dead nor lame," places the composition of the poem sometime after the period of the king's reform legislation centering about 1178 and before his death in 1189. No other commentator except Hinckley has placed the date so early. He has argued for a date between September, 1178 and the following February, as briefly noted above. His argument must be reviewed here in greater detail. The passage in question (vv. 907-10) is

þu neauer ne singst in Irlonde,
ne þu cūest noȝt in Scotlonde,
Hwi nultu fare to Noreweie,
an singin men of Galeweie?

These verses, he thinks, allude to the commission of Cardinal Vivian to visit Ireland, Scotland, Norway, and "other circum-

⁶³ Matthew of Paris, *Op. Cit.*, V, 56.

adjacent islands."⁶⁴ The poet he thinks understands by Norway not Norway proper but "English Norway," the Scandinavian portions of Scotland and Ireland, and commits the error of including Galloway among the Norwegian dominions, a mistake occurring elsewhere only in Benedict's *Gesta Regis Henrici Secundi*.

This assumption seems unwarranted as regards the wording of the poem and the chronicle. Hinckley thinks vv. 909-10 are appositive and imply that Galloway is a part of "Norway" of the verse above—surely a forced interpretation when one considers that the poet is running off a line of countries, "You never sing in Ireland, or come into Scotland: Why don't you go to Norway, and sing to men in Galloway?" Moreover, if the conjecture at first tentatively entertained, then explicitly accepted, by Hinckley were correct that the Nicholas of the poem (and its author) accompanied Vivian as one of his escort, we can hardly suppose that, having visited Galloway, he would make the same mistake as that Hinckley assumed was made by those who wrote the Cardinal's commission.

But was such a mistake made in the Cardinal's commission, as it is summarized for us by Benedict? Hinckley thinks that, as the Cardinal's commission apparently did not mention Galloway and he did actually visit it, that Vivian must have thought it a part of "Norway," that is the colonies of Norway in the British Isles. There is no need whatever for this extremely dubious supposition. In fact, there is every reason for believing that the commission literally meant Norway proper. Continental Norway was perfectly well known to the Roman Curia, and in fre-

⁶⁴ Benedictus Abbas, *Gesta Regis Henrici Secundi*, ed. William Stubbs, Rolls Series, I, 118. "Missus est itaque ad eos Vivianus presbyter cardinalis, qui etiam legatiam Hiberniae, Scotiae, et Norwegiae, et aliarum circumjacentium insularum suscepit."

(Note by editor, "Scotiae et Norwegiae omitted from B MS.")

The insertion of "aliarum" seems a thoughtless slip merely. It does not appear in Hoveden's *Chronica* (incidentally it is to be remembered that Hoveden was the king's chaplain and his record might be more reliable because of his intimate knowledge of the comings and goings of foreign ambassadors).

Roger of Hoveden, *Ibid.*, ed. William Stubbs, R. S., II, 98-99.

"Eodem anno Alexander papa misit Vivianum presbyterum cardinalem, apostolicae sedis legatum in Scotia, et in insulis circumjacentibus, et in Hybernia, et in Norweia, etc."

quent communication with it. The former Pope Adrian was sent out to organize the Norwegian Church 1152–54, the Archbishop of Norway received his pallium in Rome in 1161, Cardinal Orvieto is reported as visiting the Norwegian Churches in 1164. It seems plain that the intention was for Vivian to visit Norway, just as Orvieto had done. If then that was the intention and Vivian so understood, why did he not go to Norway—ordinarily a simple matter in view of the commercial intercourse of Norway and England? The reason is readily apparent. Vivian landed in England July 22, 1176.⁶⁵ On June 18, 1176, Sverre Birkbein made the first attack of his long and ultimately successful rebellion against King Magnus. With the kingdom of Norway in such a state of upheaval, Vivian probably decided to omit Norway from his itinerary.

Further it is incredible that the Roman Curia should have meant Galloway under the word Norway, as if supposing it a part of Norway or even of the Norwegian domains in the British Isles. The fact that Vivian did visit Galloway even though it was not named in his commission may readily be accounted for by the fact that he could not visit Norway proper, and Galloway was conveniently accessible while visiting Scotland, the Isle of Man, and Ireland. Sometimes, also, part of a commission might be delivered orally to a delegate at a final audience. And in any case Vivian might have been specially empowered to include Galloway after it became apparent that he must give up Norway. The supposition that the Roman Curia had Galloway in mind under an inclusive term "Norway" which meant British Norway is incredible. That Vivian's commission mentioned Norway and that he went to Galloway while Peter of St. Agatha's mentions Galloway, proves nothing.

It is an essential detail of Hinckley's argument—tentatively suggested in his first article and explicitly advanced in the second—that the Nicholas of the poem is the poet, that the poet was lent to Vivian as a member of his retinue and that certain allusions in the poem are explainable only on this assumption. He goes so

⁶⁵ Benedictus Abbas, *Op. Cit.*, I, 118.

far as to say even in the first article⁶⁶ that the presence of Nicholas in Vivian's retinue is "nearly as probable" as his hypothesis for the date of the poem. In point of fact there is no valid evidence for it whatsoever; it is a secondary hypothesis necessary to support the first hypothesis from which it is, itself, derived by inference. After it has been thus derived, Hinckley endeavors to find independent support for it. He argues that it was while the poet was with Vivian that he learned that the nightingale does not sing in the countries Vivian visited, and is the first writer to mention it.⁶⁷ But the fact seems to have been generally known. Neckam notes that the nightingale is not found in cold countries,⁶⁸ while as regards Ireland with its temperate climate, Giraldus Cambrensis (as has not, I believe, been previously noted) expressly affirms that nightingales are not found there, "Desunt perdices et phasiani. Desunt picae. Desunt et philomenae."⁶⁹

So also the poet might have learned of the backward state of Ireland at the time⁷⁰ from Giraldus or Benedict, as it was well known since Henry's expedition in 1171 or before.⁷¹ Clergy and laity were so backward that Henry called a council at Cashel to establish canons for baptism, tithing, and the like. And certainly a visit to Ireland was not necessary to inspire the verse (v. 322):

þu chaterest so doþ on Irish prost

for Irish priests were always abroad, and obviously the effectiveness of the verse depends upon familiar recognition of the amusing aptness of the comparison.

These items of evidence singly or cumulatively prove nothing. The conjectures that the poet accompanied Vivian remain merely a secondary hypothesis necessary to support a primary. Nor is it aided by Hinckley's endeavor to supply an actual Master Nicholas in a witness to a charter, dating before 1171 and possibly as early as 1141, of Henry of Blois, Bishop of Win-

⁶⁶ *Modern Philology*, XVII, 66.

⁶⁷ *P. M. L. A.*, XLIV, 336.

⁶⁸ *De Naturis Rerum*, R. S., 102; Atkins ed., lxviii.

⁶⁹ Giraldus Cambrensis, *Topographia Hibernica*, ed. James F. Dimock, R. S., 56.

⁷⁰ Hinckley, H. B., *Modern Philology*, XVII, 65.

⁷¹ Giraldus Cambrensis, *ibid.*, 151; Benedictus, *Op. Cit.*, I, 28.

chester, who in 1141 was in Guildford. This supposes that this Nicholas as a clerk of Henry of Blois was passed over to his successor, Richard of Ilchester, and that Richard offered him as a member of his escort to Vivian when he met the cardinal in 1176.⁷² Such a chain of purely imaginary suppositions has no evidential value whatsoever, not to speak of other difficulties in the proposed identification (quite apart from the connection with Vivian, for which there is no evidence at all) which will be touched upon in discussing the identity of the poet.

The necessity Hinckley was under for assuming the poet to have been with Vivian appears when a second passage (vv. 1015–20) is considered which Hinckley also connects with Vivian's mission—his view being approved, it may be added, by Atkins as probably correct:

þe; eni god man to hom come,
so wile dude sum from Rome,
for hom to lere gode þewes,
an for to leten hore unþewes,
he miȝte bet sitte stille,
vor al his wile he sholde spille.

It appears that a certain good man from Rome came to "them" (the rough folk the nightingale has described), a while ago (six months would suffice to explain "wile" in Hinckley's opinion), to teach them good ways and to leave off their evil ways, but should any such come as he did, he might better sit still for all his goodly intention and endeavor he would waste. This good man from Rome can certainly not be Vivian. The history of Vivian's mission is one of arbitrary acts, unjust exactions, and sharp antagonisms, if we are to believe the usually reliable accounts of Hoveden and Benedict.⁷³ Vivian proved himself a most unwelcome visitor, and was actually recalled by Pope Alexander be-

⁷² Hinckley, H. B., *P. M. L. A.*, XLIV, 342.

⁷³ The high standing of English chronicles in their accounts of continental matters is well known. As regards their treatment of the North, Leach (Leach, H. G., *Angevin Britain and Scandinavia*, 117) comments that "the accounts of the English chroniclers who 'kept themselves informed perhaps through correspondence or through conversations' are so reliable that Munch, the great historian of the 19th century, placed their authority above that of the sagas."

cause of his cupidity.⁷⁴ How under the circumstances he could be described as coming with any good intention to improve his charges is not apparent. To meet this difficulty by supposing that the poet as a member of Vivian's retinue sympathized with his activities and record—despite the Pope's rebuke—is merely to add another supposition to the account of a hypothetical poet whose whole existence is purely supposititious. This second passage cannot refer to Vivian—to link it with the first passage (as Hinckley cannot help doing) weakens, rather than strengthens his basic hypothesis.

To sum up so far, Hinckley's interpretation of the first passage vv. 907–10, and the reference in the chronicle as necessarily and conclusively referring to Vivian demands a wholly unwarrantable assumption, namely that the Roman Curia, Cardinal Vivian, the poet himself, supposed Galloway a part of British Norway—a *fortiori*, it may be added, it is necessary to suppose that the poet still labors under this error when writing his poem even after his visit to Galloway with Vivian which Hinckley posits for him. How indeed, could it be that Vivian during his mission as Hinckley himself notes, "tried to treat Galloway as a part of Scotland"? Further, connection of the second passage with Vivian is definitely contradicted by its disagreement with Vivian's most unfortunate record—and by the word "wile" which taken in its usual meaning, "some time ago," "once," relegates the missionary visit the passage speaks of to an indeterminate past, and is fatally at variance with the supposition of a recent and notable event.

In refusing to accept Hinckley's interpretation of these two passages, it must be remembered that he was straining every effort to adduce specific evidence, not to be gainsaid, that should beyond question tie up the first passage with Vivian's mission. Disproof of his evidence, of course, merely discredits the specific relation of the passage to Vivian, and what deductions as to date depend upon it. There still remains the possibility of its being a

⁷⁴ Benedictus Abbas, *Op. Cit.*, I, 167: "Celebrato autem concilio illo, praefatus Vivianus Romam rediit per mandatum Alexandri summi pontificis propter nimiam cupiditatem suam, qua fere omnes primates ecclesiasticos suae legationis depopulando oppressit."

reference to Vivian not specific in character, but offhand and casual. The poet might have had Vivian's mission in mind but not with that instancy as a close current event, or, if supposed to have accompanied him, with that personal interest of participation, which Hinckley had to assume. On the supposition that he would know of Vivian's commission as including Norway and his actual visit to Galloway, and (without making the incredible error assumed) would so refer to them all. This possibility must be thought of for Hinckley's deductions concerning the date might still have force under this amended view. As a matter of fact, they do not. His arguments concerning the date depend necessarily upon his specific interpretation. These arguments may now be considered.

In his first article,⁷⁵ his conclusion concerning date is made to depend directly upon the error he assumes Vivian (and the poet) to have labored under in supposing Galloway to be "Norway." He says that the poem must have been written "between Christmas 1176 and Sept. 21, 1178, when Peter of St. Agatha's commission, mentioning the Isle of Man and Galloway but avoiding the mention of British Norway had relegated to the past Vivian's contention that Galloway was part of Norway." In other words, that supposed error could be corrected only when Peter arrived with Galloway named and Norway omitted. One is to suppose that Vivian had made a "contention that Galloway was a part of Norway"—for which there is no proof whatsoever,—in fact, all the evidence is against it—that he (and the poet) held to this error after visiting Galloway, a principality fiercely jealous and struggling to maintain its independence, where also Vivian failed to force a delegate to go to Scotland as if subject to Scotch jurisdiction, and only gave up this error when Peter arrived with his commission.

The impossibility of such a supposition is apparent. Hinckley endeavors to support his view by several other references in the poem, only one of which is by his interpretation, in close relation to his date. In vv. 1757, 8 Nicholas, assumed to be the poet, is thus praised:

⁷⁵ *Mod. Phil.*, XVII, 66 ff.

An þurh his muþe & þurh his honde
hit is þe betere into Scotlonde.

These verses, Hinckley thinks, not only show that "Nicholas had something to do with Scotland," but also "express the complacency with which Englishmen regarded the position of Scotland from 1174 to 1189" as in vassalage to England. These verses, plainly, cannot bear such construction as regards English complacency at thought of Scotland, or as regards Nicholas' having anything to do with Scotland. They are merely playful hyperbole based upon a colloquial commonplace—Nicholas by his exceptional abilities has done good through all England even as far as Scotland. To this Hinckley adds items of evidence intended to be corroborative—that the poet would not have written of Galloway as barbarous after Roland's accession as its ruler in 1185—the poet does not write of Galloway as barbarous—and that his description of the barbarous folk of the North as like hell-creatures (vv. 1013, 14) might have contained an allusion to St. Patrick's Purgatory if written after 1183 or 1189 when that delectable legend was written up. These have no evidential value.

In his second article,⁷⁶ Hinckley still rests upon the conclusions of his first article, but changes the covering period suggested for the date. "The poet," he says, "who was seeking promotion, had every reason to write as soon after Cardinal Vivian's embassy of 1176 as possible, to appeal while his alleged services in Scotland⁷⁷ were fresh in mind, to strike while the iron was hot." But we have also to consider (vv. 745, 6)

ich graunti þat [w]e go to dome
tofore þe [sulfe Pope] of Rome.

These verses Hinckley believes to refer to Peter of St. Agatha's summoning of delegates to the Lateran Council in March, 1179. The covering period of the date would thus come between September 1, 1178, when Peter arrived in England and some date before March, say February 1, 1179, depending upon the time

⁷⁶ *P. M. L. A.*, XLIV, 337 ff.

⁷⁷ Inferred from the mistaken explanation of vv. 1757, 58, treated above.

necessary to journey to Rome. There is a contradiction here. The basis of Hinckley's hypothesis, on which rests the specific reference of vv. 907-10 to Vivian's mission, the poet's relation to him and his personal knowledge of it, depends upon the assumed error concerning Galloway as Norway, and that that error was rectified by the terms of Peter's commission. Now, the new covering period for the date of the poem is made to depend upon the dates of Peter's stay in England—yet the assumed error that was rectified by Peter's commission still appears in the poem. Are we to suppose that the poet let vv. 905-10 containing this assumed error stand, though he had learned of it? If so, are we to believe that he inserted these verses inspired by Peter's quest for delegates before vv. 905-10 at vv. 745, 6? This is really of little consequence except as correcting any offhand impression that these lines help to substantiate Hinckley's basic hypothesis—independently disproved in any case—and as showing that the verses cannot have the construction Hinckley reads into them. That was hardly necessary, for they are merely an example of a familiar commonplace—the expression of a willingness to refer the justice of one's cause in a disputed case to even the Pope's supreme judgment.

In support of this new covering period, Hinckley offers several corroborative details—the possible allusion to Bishop Foliot in vv. 867, 8 as more effective if written before his death in 1187; the reference to "wepne" as subject to both good and evil use (vv. 1369-72) which he thinks is inspired by Henry's law of 1175, soon repealed, prohibiting the bearing of arms by private citizens in time of peace, for which more fitting explanation (if the passage, indeed is allusive at all) is given below; the fine for the nightingale's murder as inspired by the specially severe and most unjust penalties exacted for alleged infractions of the forest law in 1173 and later despite the express licenses issued in 1173-4—whereas the whole effectiveness of the incident depends upon the conception of the bird's murder as like human beings' and the enormous amount of the wergeld is designed to emphasize the worship and affection accorded the nightingale and the heinous nature of the crime; and finally, the relation of the poet to Neckam as regards priority. None of these have any evidential value in respect to date.

It is thus seen that both covering periods suggested by Hinckley are tied up with his specific interpretation of vv. 905-10, and the latter also with vv. 745-6—and that neither can be accepted. It will be remembered that proof was given that vv. 1015-20 cannot refer to Vivian. If so, who is the good man that came from Rome therein referred to? This allusion is specific, definitely so—it is regrettable that, as we shall see later, it has no value in dating the poem. Its interest is merely incidental. To understand it correctly, we have to examine again vv. 905-10, and this we must do, not considering the passage within itself merely, but taking into account all that lies between as well from the challenge of the owl through the nightingale's reply, up to and including vv. 1015-20.

The owl has been upholding the worth of her song and deriding the nightingale's pretensions that her song leads to happiness and virtue. If this is so, why sing only here? "Why wilt thou not sing to other peoples, where there is much need. Thou dost never sing in Ireland, nor come into Scotland. Why wilt thou not fare to Norway, and sing to men of Galloway? In those lands there are folk that little know of song under the sun. Why wilt thou not sing to their priests and teach them somewhat of thy trilling and show them by thy voice how angels sing in heaven? Thou art like a useless spring that wells up by a swift stream, and lets the upland bake while it floweth useless down—while I"—and then she reverts to boasting of her own unremitting service. The nightingale, for her part, finds this a shrewd thrust indeed, and has to consider well before she makes answer.

In reading the poem, this challenge of the owl at once arrests attention and holds it. This is not because one perceives or learns that the owl is correct in her natural history—however striking and delightful an example is afforded of a poet's calling in a fact from the realm of sober sense to minister in the service of fancy. It is the list of countries itself—why these? The owl runs over countries that need missionary effort, that are wild, barbarous indeed, compared with England. Ireland, of course, and Scotland—but to these are added Norway and Galloway. Plainly the poet's thought runs from Ireland through the North—to Scotland first, then by eminence, Norway; then quite naturally,

though the inclusion seem strange to us, Galloway, not alone as providing a neat balance and apt rime, but because Galloway was an independent state, nominally subject to Henry and stubbornly resisting vassalage to Scotland, and decidedly an element entering into Henry's plans and problems. These things were matters of general knowledge and discussion—the naming of Galloway here, in fact, in itself, points to composition within Henry's reign.⁷⁸ The nightingale, of course, after her period of somewhat dismayed meditation, displays her accustomed verve and clever resourcefulness. Her answer begins with a vindication of the mode and virtuous uses of her song which leads up to a spirited contrast of the owl's philosophy of life and her own,

Weþer is betere of twe[n]e twom,
 þat mon bo bliþe oþer grom?
 So bo hit euer in unker siþe,
 þat þu bo sori & ich bliþe,

This furnished an artistic transition to the owl's challenge. "Yet thou askest why I fare not into another land and sing there. No—what should I do among them, whereto bliss never came?"

Here we meet with a curious and important point. The owl mentioned four countries. The nightingale refers to them separately, "Yet thou askest why I fare not into another land and sing there. No—what should I do among them whereto bliss never came?" But then she particularizes one: "That land is not good, it is not pleasant—

þat lond nis god, ne hit nis este,
 ac wildernisse hit is & weste:
 knarres & cludes houen[e]-tinge,
 snou & hazel hom is genge,
 þat lond is grislich & unuele,
 þe men boþ wilde & unisele,
 hi nabbeþ noþer griþ ne sibbe:
 hi ne reccheþ hu hi libbe.
 Hi eteþ fihs an flehs unsode,

⁷⁸ Atkins realized that the mention of Galloway is a striking fact. Though believing the poem written after Henry's death, he has to say that it indicates a knowledge of conditions as they were in Henry's reign. (Atkins, J. W. H., edition, note on vv. 910.)

suich wulues hit hadde tobrode:
 hi drinkeþ milc & wei þarto,
 hi nute elles þat hi do:
 hi nabbeþ noþ[er] win ne bor,
 ac libbeþ al so wilde dor:
 hi goþ bitizt mid ruþe uelle,
 rizt suich hi comen ut of helle. (vv. 999–1014)

And then follows the specific allusion to the efforts of the good man from Rome whose work was in vain as that of any good man will be who attempts the like. "What should I do there with my song—it would be lost every bit. For neither halter nor bridle may lead them from their mad ways, nor man with steel or with iron."

Little attention, apparently, has been given to the nightingale's definite centering of her reply upon one land. Vv. 995–998 merit careful consideration:

ʒut þu aisheist wi ich ne fare
 into oþer londe & singe þare?
 No! wat sholde ich among hom do,
 þar neuer blisse ne com to?

The owl has run over several lands—and the nightingale takes account of them. "Into another land" does that; one need not make *londe* plural, though to do so would strengthen the significance of the charge that follows. Then one asks what is the antecedent of *hom*. Is it to be taken as meaning "the people there," as Atkins had done? That involves a loose pregnant construction, on top of which it is necessary immediately to assume another loose pregnant construction, for the *þar—to* must refer by reversion to *londe*. At its full value the passage implies lands in the plural, not singular. Yet instantly the nightingale passes over to "that land" twice repeated—which surely cannot be supposed to mean "that general kind of land you spoke of." A single land is pointed at, and the description that follows is plainly of a particular land—not of a vague composite of Ireland, Scotland, Norway, and Galloway. If the poet fastens upon a particular land, to what land is the description appropriate? It certainly does not fit Ireland in a number of particulars—

climate, cragginess, lack of wine, and beer, uncooked fish and flesh. Only in part does it fit Scotland (and Galloway)—as mountainous and tolerably intemperate—but not in other respects. And neither Ireland nor Scotland afford a consistent interpretation of the whole passage. But Norway does. Atkins has noted that the description best suits Norway; he adds “and the barbarous North” because it is not apparent to him why the poet should single out Norway. Further, he points out that the passage contains what certainly seems like reminiscences even verbal, of Alfred’s *Orosius*—the voyages of Ohthere and Wulfstan—either Alfred or some derivative.⁷⁹

In Ælfred “þæt land” (twice repeated here) is said to be,

eall wēste būton on feāwum stōwum . . . wiciaþ Finnias . . . þæt Northmonna land wære swýþe lang and swýþe smæl. Eal þæt his man āþer oþþe ęttan oþþe ęrian mæg, þæt līþ wiþ þa sæ, and þæt is þēah on sumum stōwum swýþe clūdīg—[cf. knarres & cludes], and liggaþ wilde moras wiþ ēastan an wiþ ūppon emnlange þæm býnum lande . . . (In Estland) sē cyning and þa rīcstan men drincaþ mýran meolc, and þā unspēdigan and þā þēowan drincaþ medo . . . and ne biþ þær nānig ealo gebrowen mid Estum, ac þær biþ medo genōh.

Indirectly, in Ohthere’s voyage clothing of skins is mentioned—“berenne kyrtel oþþe yterenne.” Atkins states also that his attention has been called to the persistence of the tradition that Norway had no ale or beer, for as late as 1247 Cardinal Williams was told that he would get no drink in Norway except sour whey.

It seems about certain that the poet was drawing on reminiscences of Alfred or from Alfred for his account. That he had indeed special reason for thinking of Norway and for so graphic an account of the barbarity of its people will appear later. To finish first with this passage—no one has given a really acceptable explanation of the concluding verses, referring to the visit of a good man from Rome; Cardinal Guala’s mission to Scotland in 1218 was suggested by Börsch, but this, as has been pointed out by other commentators, does not fit either in character or date. But accept the special reference of the whole passage to Norway

⁷⁹ Edition of *The Owl and the Nightingale*, 84, vv. 999–1014, note.

and the meaning of it becomes clear. In 1152-54 Cardinal Nicholas Breakspear, an Englishman, afterward Pope Adrian IV, the only Englishman who ever became pope, under commission from Rome, was busied in organizing the Norwegian Church, that Breakspear whose efficiency and ability as an organizer were attested by Cardinal Boso, and which were remembered by Matthew of Paris.⁸⁰ The date is about a quarter of a century before the poem. That is why the poet says "wile," a while ago. And, with his mind fixed on Norway, as we shall see, he had good reason to feel that all the efforts of Cardinal Nicholas were lost.

But why did the poet think of Norway and why his graphic picture of its wildness and barbarity? A far different account might be expected considering England's relations with Norway.

One is apt to hear much in history of the relations of England with the continent, with Ireland and Scotland but little of her relations with the Scandinavian countries. For example, the rôle of arbiter in international politics was played more than once by the astute Henry. We hear in 1176 that the kings of Navarre and Castile applied Henry to arbitrate in a great international dispute.⁸¹ Later in 1182-5, he interceded with Frederick Barbarossa in behalf of his son-in-law, Henry, the Lion of Saxony, when that powerful prince was despoiled of his dominions.⁸² Such achievements as these almost overshadow England's relations with Scandinavia. But the relations between England and Norway must have been intimate. "The English rolls are filled with the names of Norwegians which outnumber ten to one those of Danes. It is to be noted that Norwegian clerks are named in the English rolls because they figure as merchants and diplomats; church business and private affairs demanded no mention." It is therefore, in connection with the commercial relations between Norway and England that one finds the greatest number of

⁸⁰ Poole, R. L., *The Lives of Robert Pullen and Nicholas Breakspear*, in *Essays in Medieval History*, presented to T. F. Tout, 67—Boso speaks of his ability in conducting the business of his house at the papal court, and Matthew of Paris says he thrice had occasion to repair thither and each time with more conspicuous success.

⁸¹ Matthew of Paris, *Op. Cit.*, II, 299 ff.

⁸² Benedictus Abbas, *Op. Cit.*, I, 287.

records during the twelfth century. Due to the austerity of the country, Norway was forced to look away from herself for most of the necessities of life; her only outlet was the sea and the open path of the sea pointed to England as her near neighbor and intermediary with the continent. Because of this, England became early in the history of Norway, the middleman which supplied that country with luxuries and so remained until the fourteenth century. Norse bills of lading indicate that she brought to England dried fish, furs from Greenland and Iceland and not infrequently one hears of Norse kings presenting English kings with white falcons, hawks, and other valuable gifts. That England monopolized the trade of Bergen in the 12th century seems evident when one remembers how regularly ships plied between this port and those on the eastern coast of England, the most important of which was Grimsby, an old Scandinavian settlement in Lincolnshire, near the mouth of the Humber, although London, Newcastle, Ipswich, and Yarmouth came in for a fair share of Norse trade. And it is to be noted that in these places the Norse language was spoken, according to Alexander Bugge, until after 1200. The regard in which English merchants were held by the Norse is well illustrated by an address of King Sverrir, dating after 1186, in which, while referring to strangers who sought Bergen from across the seas, he thanked especially, "all Englishmen, who come here bringing wheat and honey, flour and cloth." Thus it appears that English merchants maintained intimate relations with Norway during the twelfth century.⁸³

This steady stream of commerce between England and Norway exerted influences in various directions. The royal household of Norway had long regarded the English court as its model and pattern. From the time when Harold Fairhair (860-930) who had united the kingdoms of Norway under one crown, sent his son Hákon to King Athelstan (925-940) to be educated as his foster son down to the reign of Sverrir, who numbered among his most faithful servitors, his English chaplain, Martin, who virtually

⁸³ Leach, Henry Goddard, *Angevin Britain and Scandinavia*, 25-72. (The facts pertaining to the relations between England and Norway found in this summary were taken from the above-mentioned work.)

acted as his chancellor; and to the reign of Hákon Hákonarson who made of Matthew of Paris a friend and confidant, the influence of England seems to be paramount to all others.

Notable also was the influence of England upon the Norse church. In this connection it is to be remembered that Norway was christianized from England, that the characteristic institutions and terminology of the Norwegian church were borrowed from the Anglo-Saxon. We hear that Olaf Tryggvason (995-1000) received Christian instruction in England and an English bishop was with him in Norway. Also that Olaf Haraldsson (1016-1030) was baptised in England and had with him many bishops and priests from England. In 1152-54, as already noted, an Englishman, the future Pope Adrian IV (1154-59), was sent to Norway to organize the church. The new see established at Nidaros embraced eleven bishoprics, five in Norway, two in Iceland, one each in Greenland, Sodor, Man, the Orkneys, and the Færoes, and a new bishopric with its seat at Hamar. The first monastery in Norway, the Benedictine foundation at Nidarholm, off Trondhjem, is said by Matthew of Paris to have been established by Cnut the Great in 1028. The Cistercian order was taken over to Norway from England in 1146. Bishop Sigurd upon visiting Fountains Abbey, became so enthusiastic about the new rule of the Cistercians that he determined to establish a Cistercian foundation in his own see. The Abbot of Fountains supplied him with monks from that cloister and these founded the monastery of St. Mary's at Lysa. "The first Abbot of Lysa returned in his old age to Bergen, and the abbey remained under the immediate personal supervision of Fountains until 1213.⁸⁴ If the English priests and monks found their way into Norwegian ecclesiastical houses, the converse is also true; Peter of Blois in his continuation of Ingulph's *Chronicle of Croyland Abbey* records the fact that he has had occasion to address to the King of Norway a letter in behalf of a certain merchant, Thorwy by name, who had assumed the monastic habit at Croyland.⁸⁵

It may be assumed that Norwegians came in some numbers to

⁸⁴ Leach, Henry Goddard, *Op. Cit.*, 88.

⁸⁵ Ingulph's *Chronicle of Croyland Abbey*, ed. H. T. Riley, 236-37.

the schools. Leach believes that were it possible to see the rolls for the twelfth century, one would probably find many Norse names registered. We are told, for example, that "about 1160, Thorlak, an Icelander who became bishop of Skálholt, studied at Lincoln, and that he went to Paris and was there as long as he thought needful to get what knowledge he wished, then returned to Lincoln and there got great knowledge." Thorlak's nephew, († 1211) the next bishop of Skálholt, was also educated in England. Another illustration of the close relationship between the Norse and the English churches is the fact that one finds English saints revered in Norway and Norse saints in England. "We find at Stavanger a church dedicated to an English saint, St. Swithin; at Vannelven and Lurö churches dedicated to St. Edmund, probably grateful remembrances by Eystein of his stay at Bury St. Edmunds," as Leach suggests. But Thomas à Becket far surpasses in popularity either of the other saints mentioned. The sagas make frequent mention of him, of his miracles, of pilgrimages from Norway and Iceland to his shrine. On the other hand, the Norse St. Olaf enjoyed widespread popularity in England. "An English bishop disinterred the body of Olaf, recorded his miracles, and pronounced him a saint; it was thus through the intervention of an English bishop that the erstwhile unpopular king became the most popular saint in the North." That Olaf was revered in England is attested to by the fact that fifteen churches are dedicated to him; in London alone in the reign of Henry II, there were three churches dedicated to him; and one finds the events of his life and his miracles pictured in the stained glass windows of many churches and a place is given to him in the calendars of both the English and Scottish churches.⁸⁶

Further, a notable proof of England's influence upon Norway is to be found in her ecclesiastical architecture. It is no accident of history that the architectural style of the period 1066-1184, should be characterised as Anglo-Norman. The cathedral at Stavanger, begun about 1127 displays the Norman influence in several features; namely, the use of the three-aisled basilica

⁸⁶ Leach, Henry Goddard, *Op. Cit.*

with heavy large round piers. The new Romanesque transept of the cathedral of Trondhjem was patterned on English models.⁸⁷

Literature, also, learned and polite, (ready transmission of oral popular literature had existed for centuries) passed over from England to Norway and Iceland. This may safely be assumed for the 12th century, though it might be difficult to instance specific examples, but there is no such difficulty from the beginning of the 13th century through to the 14th.

Even from so brief and cursory a survey, it is evident that England was a powerful factor in shaping the civilization of Norway proper—quite apart from her similar intercourse with Iceland—through commerce, through diplomatic and friendly relations of the courts of the two countries, through the church, and as an open door through which scholarship, literature, the arts found their way. If then, as is plain, the relations between the two countries were intimate, if the chroniclers kept themselves informed as to what was happening in Norway by correspondence and the reports of travellers, if something of this must have been known to every reasonably well-informed man—in broad particulars, if not in accurate detail, for we are apt to take for granted they knew little, whereas there was the liveliest interest and gossip about current matters and a retention, if mythicized memory, of events in the past—is it not strange that the poet, through the nightingale, could even as a special pleader with a point to make, paint so horrific a picture of the nature of the country and the barbarity of its people? It is a land to which bliss can never come, a wilderness and waste, bristling with crags and peaks towering to the sky, a land where snow and hail abound. Such a land can produce only inhabitants wild and evil, caring nought for peace or truce, knowing not how to live, eating fish and flesh raw, tearing it to pieces like wolves, drinking milk and whey, having neither wine nor beer, existing like beasts, going about clothed in skins, looking as if they had come from hell—quite untamable, for nor bridle nor halter, nor steel and iron, indeed, can bring them into subjection. This is not a mere fancy picture. He is drawing upon his resources—details of

⁸⁷ Leach H. G., *Op. Cit.*

description, derived directly or ultimately from Alfred, traditional slurs such as the drinking of whey in lack of wine or beer—to describe Norway. And this land had had its chance, a good man had gone there, had shown them what was good, how to leave off their evil ways. But his good work was lost; their innate savagery had brought it to naught. Why does the poet through the nightingale play up Norway—why point to that Christian land as Christianized in vain?

The answer is to be found in the contemporary history of Norway and in the life of a remarkable man, Archbishop Eystein. Eystein received the pallium in Rome in 1161, and from that time on, he was a dominant figure in Norway—indeed he must be accorded a high place among the statesmen prelates whose activities form so marked a feature of medieval political history. Beside being the most outstanding archbishop of Norway for at least two centuries in his conduct of ecclesiastical matters, he was also a diplomat, and a statesman, long firmly controlling the policies of Norway. He created Magnus King of Norway. He was an author and a builder of churches. He was an intimate friend of Thomas à Becket; they were, as Leach calls them “kindred spirits.” The same authority quotes a letter of Becket to the Bishop of Meaux in which letter Becket writes, “Welcome, if it please you, the bearers of these presents, Master Godfrey and Master Walter, messengers of our reverend brother, the Archbishop of Trondhjem, with the same kindness with which your grace has been wont to receive us and ours.” The destinies of the two archbishops, Leach adds, differed “in that Thomas lost his life, Eystein only his cause.” To Leach’s spirited account of the “mighty Eystein” as he calls him in his *Angevin Britain and Scandinavia*, (89 ff.) a book as delightful as it is informing, it has been possible to add one or two new points concerning the great archbishop.

Eystein’s downfall came through Sverrir, the renegade priest, born in the Færoes Islands, who usurped the throne at the head of his rag-tag peasant army, uncouth and savage, called the Birkbeiner from their practice of protecting their legs from the snow with birch-bark. These are the men who are wild and graceless, mad, knowing neither peace nor truce, that live like beasts, whom

nor halter nor bridle, steel nor iron, could bring from their mad ways. For years after the renegade priest was crowned and compelled toleration, even acceptance, the Birkbeiner were anathema, to the Church party, the crozier-bearers, the Bagler, and the Pope, Innocent III, withheld his countenance and favor. In the final issue, Magnus fell, Sverrir was crowned, Eystein fled to England, and one of his first acts there was to excommunicate the pretender, the *presbyter*, on account of whom he was in exile.

The references to Eystein's sojourn in England might easily seem brief and meagre, if one did not keep in mind the relation of reports in annals and chronicles to the intrinsic significance, or contemporary interest of an event. Properly judged, English chroniclers give this event, and Eystein's visit, a notable amount of space. William of Newburgh,⁸⁸ Roger of Hoveden,⁸⁹ and Benedict of Peterborough⁹⁰ describe the disrupted state of Norway over a long period of years concluding with Eystein's flight: Roger says, "Et Augustinus Nidrosiensis (*i.e.*, of Nidaros at Trondhjem) archiepiscopus, nolens aliquam facere subjectionem Swerre, presbytero, archiepiscopatum suum reliquit, et venit in Angliam et excommunicavit Swerre presbyterum." It is worth noting how the *presbyter* is repeated. By good luck that born biographer, Jocelin of Brakelonde, had occasion to bring a number of illuminating details about him into his history of Bury St. Edmunds.⁹¹ There are notations concerning him in the financial records of the reign of Henry II.⁹² Mention of him occurs also in the Sverrir Saga.⁹³

⁸⁸ William of Newburgh, *Historia Rerum Anglicarum*, III, 228 ff.

⁸⁹ Roger of Hoveden, *Op. Cit.*, II, 212 ff.

⁹⁰ Benedictus Abbas, *Op. Cit.*, I, 266 ff.

⁹¹ Jocelini de Brakelonda, *Chronica*, 12.

⁹² *Great Roll of the Pipe*—27 Henry II, 93. "Et in corredio archiepiscopi Norwegie xxxv l. a vigilia Sancti Laurentii usque ad diem Sancti Luce Evangeliste, scilicet de lxx diebus per breve regis."

Great Roll of the Pipe—27 Henry II, 98. (Hitherto unnoted). "Et archiepiscopo de Norwegia ad procuracionem suam xx l. per breve Randulfi de Glanvill."

Great Roll of the Pipe—28 Henry II, 74. "Et in liberatione archiepiscopi de Norweia lix l. et x s. de xvij septimanis per breve regis."

Great Roll of the Pipe—28 Henry II, 60. (Hitherto unnoted.) "Et in liberatione archiepiscopi Nidrosiensis de c et lxviii diebus quater xx et iiiij l. per breve regis."

⁹³ *Sverris Saga* etter Cod. AM. 327.4^o—utgjevi ved Gustav Indrebö, ch. 78, 84-5. (I am indebted to Prof. Oluf Kolsrud of the University of Oslo for this reference.)

At the time of Eystein's setting sail for England, sometime after the downfall of Magnus in June 1180, King Henry II, was in Normandy and did not return to England until the last of July 1181. Apparently, Eystein sought the king when he returned and requested his hospitality. Henry II, perhaps "remembering the friendship of Eystein and Becket, and contrite for Becket's death," gave him aid and since at that time the abbacy of Bury St. Edmunds was vacant, the king thought it well to lodge his guest in the vacant house of the abbot, and granted him corrodies, amounting to ten shillings a day; this last item Jocelin of Brakelonde imparts in his history of Bury St. Edmunds but he says nothing further until the summons came from the king on February 15, 1182 for a delegation, empowered to elect an abbot, to appear before him at Waltham on February 22, and "while Jocelin says nothing about Eystein's accompanying the delegation, he says that the Norwegian Archbishop 'was of considerable assistance in obtaining for us our free election, bearing witness of what was well and publicly declaring before the king what he had seen and heard.'⁹⁴ The vote was taken in the king's presence at Waltham, on February 22, and partly (we may believe) as the result of Eystein's efforts Henry gave the delegates their free choice of Samson the sub-sacrist for their new abbot. Whatever representations Eystein may have made for himself, the fact remains that he secured from Henry II a license permitting the Archbishop of Nidaros to export each year from England a shipload of grain duty-free."⁹⁵

With these facts before us, we may ask where Eystein spent the time between his arrival in England in the summer of 1180 and his appearance at Bury St. Edmunds on August 9, 1181, and then again from the time of his departure from Waltham when he attended Henry's Council, February 22, 1182 until his return to Norway during the summer of 1183. Jocelin's account gives actual facts regarding his sojourn at Bury St. Edmunds; for his activities elsewhere, we must rely on such conclusions as we may draw from the *Rolls* entries and contemporary history.

⁹⁴ Jocelin de Brakelonde, *Op. Cit.*, also, Leach, *Op. Cit.*

⁹⁵ Leach, Henry Goddard, *Op. Cit.*, 93.

At this point a hitherto unnoted entry in the *Rolls* reveals the fact of Eystein's presence from June 30, 1181 to August 9, 1181 in Huntingdonshire and Cambridgeshire.⁹⁶ We find the sheriff for these two counties displaying a writ showing that twenty pounds was paid for the entertainment of the Archbishop of Norway at the order of Ranulf Glanville. That the order was issued by Glanville during and because of the king's absence can be seen, because the king did not return from Normandy until the last of July 1181 and the other three writs state expressly that they were issued at the order of the king; one for 35 pounds is recorded in the report of the district of Bury St. Edmunds for the year ending Michaelmas 1181, another for 59 pounds, 10 shillings for the year ending Michaelmas 1182, and still another for 84 pounds in the same year. Therefore, we must conclude that Eystein was in Huntingdonshire and Cambridgeshire before his appearance at Bury St. Edmunds on August 9, 1181, and was entertained in those counties⁹⁷ probably at the University, as the guest of the king. The *Rolls* entry merely gives the total; whether he was awarded by Glanville the corrodies of ten shillings a day which he received from the king, or not, we cannot say; however, it seems quite probable that he was paid the same amount by the justiciar as by the king, and it would, therefore seem safe to assume that the corrodies covered a period of forty days before he arrived at Bury.

Where was he then before June 30, 1181? One fact we have already noted, a most important fact, but it tells us nothing of his movements. On his arrival in England he excommunicated Sverre. This was no empty gesture of personal hatred and anger, however negligible the effect upon Sverre politically. It must be remembered that the Church from the Supreme Pontiff down would be against the usurping priest-pretender and withheld countenance of him even after Eystein had made terms with him and returned. Eystein, we must suppose, would for sometime be occupied with visits of state, ecclesiastical and civil, and

⁹⁶ *Great Roll of the Pipe*—27 Henry II, 98.

⁹⁷ The proximity of these two counties to King's Lynn, one of the ports of entry from Norway, would account for his presence in this locality, since here he could obtain from travelers news of the progress of affairs in Norway.

stays of indeterminate length, and he would eagerly, no doubt, seek out fellow-Norwegians that were or might be friendly to his cause. One might conjecture even that he visited the Norse settlements of Scotland, or the islands of Sodor and Man but it is unlikely. More probably, he would inform himself by messengers and persons who called to visit him, instead of undertaking arduous and perilous journeys. Besides, one chief interest would hold him in England—that of winning the help of the king, or failing in that, since Henry was in Normandy, the aid of men of influence, churchmen or others to advance his cause upon the king's return. At all events no note of any visits to the Norse colonies or to Normandy has as yet been found.

We must then be satisfied with finding him at Huntingdon and Cambridge, and later at Bury St. Edmunds, and we know that he did meet the king.

During the Archbishop's sojourn at Bury, Leach suggests that he may have "spent his time in composing the *Passion of St. Olaf*, a copy of which was preserved at Fountains Abbey."⁹⁸ We have already heard that he accompanied the monks to Waltham and assisted them in securing the election of Abbot Samson. Again after this event, there is no record of his movements except what we may infer from a hitherto unnoted entry in the *Rolls*.⁹⁹ Here we find the Bishop of Lincoln in making his report to the Treasury at the end of the fiscal year of 1182, produced a writ showing that he had paid the Archbishop of Nidaros (who can be no other than Eystein) 84 pounds, corrodies for 168 days, at the writ of the king.¹⁰⁰ This entry throws an interesting light upon the activities of the visitor, for it indicates that he was a guest in Lincoln during 168 days at the expense of the king; that is, from February 22, 1182 to August 9, 1182. And it is peculiarly appropriate that Eystein should have remained here for so long a time in view of the fact that Grimsby, the chief port of entry from Norway, is located here and the Archbishop could keep himself

⁹⁸ Leach, Henry Goddard, *Op. Cit.*, 93.

⁹⁹ *Great Roll of the Pipe*—28 Henry II, 60.

¹⁰⁰ Writ of the king—it may be objected here that the king was absent in Normandy when this writ was in all probability issued. I think in this case that the "per breve Randulfi de Glanvill" which should precede the "per breve regis," has been omitted by reason of some scribal inconsistency.

informed concerning the struggle between Sverre and Magnus from the reports of sailors and travellers.

The records we have do not indicate Eystein's presence in the South, yet that he must have gone thither we know from convincing evidence. Such a visit would be highly probable in any case when we remember the intimacy that existed between Thomas à Becket and the Archbishop and the fame of St. Thomas in the North. But we may be quite certain of it: Guillaume de Sens was then rebuilding the Canterbury Cathedral (which had been burnt in 1174) and Eystein on his return to Norway incorporated certain features of the new Gothic style (which he more than likely saw at Canterbury for the first time) in the choir and transepts he added to Trondhjem Cathedral.¹⁰¹

While Eystein was in the South, what other places did he visit? In the absence of positive information, some conclusions regarding his itinerary may be deduced from a consideration of the chronicles. It has already been stated that the only English chroniclers who mention his stay in England are Jocelin of Brakelonde, Benedict of Peterborough, William of Newburgh, and Roger of Hoveden. Of these Jocelin, alone, asserts anything definite regarding Eystein's stay in England; he indicates that he was at Bury St. Edmunds for 189 days and the *Rolls* confirm his testimony. Jocelin's testimony is that of one who met the Archbishop personally. Is it not possible that some of the other historians may also have done so? The first one that occurs to me is Roger of Hoveden who was the king's chaplain and probably came in direct contact with the celebrated visitor, a fact which would account for the importance attached to his visit, in the form of a summary of several decades of Norse history in his *Chronica*. But Benedict and William of Newburgh also devote much space to a recital of the same events. Is it possible that the Archbishop was a guest at Peterborough during his long sojourn in Huntingdonshire, and Cambridgeshire; at Canterbury, Newbury, or their vicinity? Immediately the question arises, why were these historians not so detailed in their accounts as Jocelin. The answer lies in the nature of the historian and the

¹⁰¹ Leach, Henry Goddard, *Op. Cit.*

character of his work. Jocelin's work is of less extensive range, and is devoted to the *Gesta* of Abbot Samson; again, the historian is the Boswellian sort who has much to say and does not need to be persuaded to say it. Further, abbey chronicles are conspicuously lacking in notices regarding the visits of traveling churchmen for the obvious reason that these visits came so frequently that they were regarded as being far less important than the discovery of the relics of some saint or the *obits* of abbots. But the histories of Benedict and William are not the kind to go into casual details. They do record the troubled state of Norway with the concluding remark that the Archbishop fled to England and excommunicated the usurper; that, for them, did the matter full justice. We may further believe that Eystein, while in the South, would scarcely omit visiting Winchester—and either from Canterbury or Winchester, the news of the Archbishop's presence could easily spread.

In brief, we may believe that the poet, if, in some churchly or civil office, was not actually present when Eystein was entertained to hear how Sverrir, in defiance of his priestly vows, "*Sverrir presbyter*," as Roger repeatedly calls him, dared with his rabble, his barbaric horde to rise up against his king, and depose him; yet he must certainly have heard either directly or from others of such a dramatic event, so outrageous to all churchmen—from Eystein himself or some member of his retinue, That Eystein, the powerful Archbishop of Norway, the friend of Becket, did not pass only on sufferance in England, through sympathy with his exile and the circumstances of his flight, there is evidence clear enough. He had been and still might be powerful in the affairs of Norway. That both king and justiciar felt this is plain from the liberal *corrodies*¹⁰² which Eystein received. His personal prestige appears in the license for duty-free grain, a shipload yearly, he obtained from Henry and it appears in Jocelin's testimony that Eystein's influence was of considerable assistance in obtaining for the delegates of Bury their free choice of a new abbot, through his public declaration of what he had seen and heard at Bury. Eystein's story must assuredly have been

¹⁰² Henry's niggardliness in regard to the church was well known.

bruited everywhere. Does it not then seem wholly likely that when the poet makes the owl taunt the nightingale because she sings not of heaven in the countries of the North, the nightingale should fasten upon Norway, call up a picture of Sverrir's savage Birkbeiner made up of what picturesque details he knew of Norway and conclude it by recalling Nicholas Breakspear, who had labored so assiduously for that people—a people that now in so shocking a fashion had shown their irremediable barbarity, their fierce repudiation of all things decent and of good repute?

If so, the poem dates between the latter part of 1180 and 1183, the dates of Eystein's arrival and return to Norway. It might possibly have been written shortly after 1183—not long after for the return of the Archbishop would, one would think, lessen the force of the nightingale's denunciation of the hopeless barbarity of Norway, as showing them rather affected by temporary madness followed by a return to sanity. One wonders if Eystein's curse did hamper Sverrir. At all events Eystein was permitted to return, no doubt, with the consent of the Pope, with that cleverness in political matters, so great that we may call it almost always infallible, characteristic of medieval church-politicians, always ready to temporize difficult situations even though open recognition of Sverrir might be long withheld. In view of the foregoing, it seems wise to assume a date somewhere between the end of the year 1182 and the end of 1183.

This, it will be noted, is in excellent accord with the dates of Henry's legislation which explains the reference in the poem to "this peace," discussed above, especially the system of itinerant justices that insured its observance through his personal supervision. That system was instituted by law in 1177, but its organization and various modifications took time, and it was fully in running order about 1180.

No passage in the poem so far as I can find after patient scrutiny is not in accord with the date suggested. One or two passages, if they really contain allusions at all, would help to confirm it. It will be remembered that Hinckley¹⁰³ adduced verses 1369–72

¹⁰³ Hinckley, H. B., *P. M. L. A.*, XLIV, 337.

Wepne beoþ gode griþ to halde:
 ah neoþeles þarmide beoþ men acwalde
 aþeines riht [an] fale londe,
 þar þeoues hi bereþ an honde.

as referring to Henry's short-lived ordinance promulgated about July 1, 1175. As noted above the passage may be nothing more than a commonplace—weapons being a ready example of a thing easily turned to good or evil. But if this passage is allusive, it fits far better the Assize of Arms instituted by Henry shortly after 1181 than a prohibition against the carrying of arms by private citizens in times of peace. By that ordinance the possession or use of weapons was forbidden as wrong; by the Assize of Arms, the use of weapons was enjoined as helpful to the state; the intent of the passage is this, "Weapons are good wherewith to maintain peace but they can be turned to evil."

Another passage in which the allusive character is more apparent was first cited by Börsch¹⁰⁴ as a probable reference to edicts of excommunication. The nightingale in closing a diatribe upon the loathesomeness of the owl, exclaims (vv. 1173 ff.):

"God Almiȝti w[u]rþe him wroþ,
 an al þat werieþ linnene cloþ!"

To which the owl replies

"Wat," quaþ ho, "hartu ihoded?
 oþer þu kursest al unihoded?
 For prestes wike ich wat þu dest.
 Ich not ȝef þu were ȝaure prest:
 ich not ȝef þu canst masse singe:
 inoh þu canst of mansinge."

When the nightingale gets around to answering this jeer at her fulminations, she accuses the owl of having power of prophecy through witchcraft, and says that she must purge herself of that or flee the land, for all who knew aught of that were of old accursed from the priest's mouth, "such thou art yet, thou hast never abandoned witchcraft. I said to thee just now, and thou didst ask in mockery if I had been hooded for priestly office."

¹⁰⁴ Börsch, J., *Op. Cit.*

Then follows the really significant statement in the first verse of the following passage (vv. 1312-14):

“Ah þe mansing is so ibroded,
þah no preost a-londe nere,
a wrecche neopeles þu were.”

This obvious reference to the frequency of excommunication finds ready explanation in connection with the date postulated above. In 1177 Cardinal Peter was sent by the Pope to lay Henry's dominions under interdict in order to enforce the marriage of Richard and Aelais, daughter of Louis VII of France; this action was forestalled by an appeal of the English bishops to the Pope. In 1180, as has already been mentioned, Eystein issued the sentence of excommunication against his arch-enemy, Sverrir. The same year began the struggle between John Scott, candidate-elect for the See of St. Andrews in Scotland, and Hugh, chaplain to William the Lion of Scotland; the contestants, each secure in the rightfulness of his own cause, defied the intervention of the Archbishop of York, the papal legate, and even after the sentence of excommunication, William persisted in supporting his candidate until 1181 when his whole realm was placed under interdict and it was not until after the death of Alexander III, that the matter was settled as a result of the insistence of William's ambassadors at the court of Lucius III who absolved the King of Scotland.¹⁰⁵ With so many excommunications in the air—the realm of England just escaping it, Scotland under the ban, others in recent memory—there can be no doubt, the nightingale says, that were there no priest expressly to do it, the owl would be sure to get her dues, a stricken wretch.

One feature of the poem might appropriately have been treated in the second section of this discussion, but has been reserved for consideration here in part because it does in some degree afford specific evidence corroborative in nature concerning the date.

The debate of the two birds, within the train of varied personalities that gives the poem its delightful naturalness and

¹⁰⁵ Benedictus Abbas, *Op. Cit.*, I, 266 ff.

comedy, in particular their attack and defence regarding the comparative aesthetic merits and moral influence of their contrasted modes of song, touch now and then on their contrasted philosophies of life,

So bo hit euer in unker siþe
þat þu bo sori & ich bliþe. (vv. 993-94)

If the nightingale can make great play with the owl's ugliness, filth, harsh voice, gloomy and bitter view of human existence, continual dwelling on sorrow, disaster, death, sin, judgment to come, making goodness repellent and life in general a vale of tears, the owl on the other hand holds up to scorn her adversary's scrawny feeble body, the proverbial dinginess of her plumage, the shrillness of her incessant trilling, her empty pretense that she wins folk to virtue by a foretaste of the celestial song

Wenest þu hi bringe so liȝtliche
to Godes riche al singin[d]e? (vv. 854-55)

But she can force home a more serious charge. The nightingale's song is all of wantonness, it lureth to evil, no holiness is in her, it was such beguiling song that helped seduce the knight's wife and brought down the knight's vengeance. Through this charge a leading theme is introduced into the poem. The nightingale is at last forced to make a long disquisition of an unusual sort in certain ways, upon love honest and illicit—for well enough the nightingale knows that her song against the moon is held to sway the hearts of her hearers to romantic passion—and both nightingale and owl are thus brought to give their views upon the possible blessedness, the probable woes of marriage.

There are familiar elements in this disquisition of the nightingale but they enter only incidentally; the treatment of the theme is not a familiar traditional sort. In such a discussion, the fact on which it centers is marriage, and "love" is not necessarily concerned with marriage; but only conditionally enters into it or illicitly invades it. One has to keep in mind the actual status of the married woman in feudal society; that is, the social institution of marriage as actually in practice, with its effects in relation to the participants, especially the wife—on drawing from

their experience both nightingale and owl comment. There is next the churchly, in particular, the monastic attitude toward women in general—as a creature possessing peculiarities markedly differentiating her from man—and, toward marriage in particular; and in the third place, quite unchurchly, the doctrine of the sovereignty of love as having nothing to do with, indeed incompatible with marriage, postulated by the courtly code. All three are in the background and affect the comment of both birds.

One may touch these elements briefly. Except in individual cases due to rank, exceptional force of character, mutual respect and affection (the last is referred to by both birds and specially stressed by the owl) the married woman in feudal society was a natural inferior, dependent upon favor, a domestic utility, hardly more than chattel—a far more primitive and brutal form of what has persisted to our own day,

He will hold thee when his passion shall have spent its primal force,
Something better than his dog, a little dearer than his horse—

for one can indeed be shocked and surprised if one look into the marital relations (or toward women in general) of the knights of chivalry we so love to romanticize. There is, next, the age-old denunciation of women by monastic writers. In sermons, treatises, poems, epigrams, in serious or semi-jocose satire, she is the temptress lying in wait for the unwary, the siren luring her victims upon the rocks, the primary tool of the devil, the “*naturalis temptatio, desiderabilis calamitas, domesticum periculum, via iniquitatis.*”¹⁰⁶ Or to slide down the centuries “*lesse pittefullie than a man, more envius then a serpent, mor malysceous then a tyrante, and more deceytfulle then the devylle.*”¹⁰⁷ Many ecclesiastics wrote erotic poetry under the influence of Ovid, or by more direct inspiration in their student days but lived to repent it or to trick regretful remembrance by sophistic rhetoric on the sinister beguilements of the daughters of Eve. Even the great Hildebert of Lavardin (1056–1133) was not above assailing woman in the abstract in such words as

¹⁰⁶ Wright, Thomas, *Reliquae Antiquae*, I, 168.

¹⁰⁷ Wright, Thomas, *ibid.*, II, 110.

"femina res fragilis, nunquam sine crimine constans,
nunquam sponte sua desinit esse nocens.

although his courtesy to individual women was above reproach and often marked by what Haureau calls 'les raffinements de son exquise urbanité.'"¹⁰⁸ Marbod of Rennes (1035–1123) among whose early works one finds "some charming verses 'Upon a beautiful Girl,' in an epigram advises us to put no trust in women,

quisquis eris qui credideris fidei mulieris,
crede mihi, si credis ei, quia decipieris.

In his terrible verses *De Meretrice*, he affirms among the countless snares the crafty foe has spread all over the hills and plains of the world, the greatest is woman; scarce any one can escape that snare:

femina, triste caput, mala stirps, vitiosa propago."¹⁰⁹

None the less, in another poem, he praises the virtuous matron who conforms her life to Christ's law. In parallel with this, through endeavor to win woman away from her inherent frailty and proneness to carnal sin, recurrent from the Fathers down, is the exhortation to virginity and exaltation of the felicity it confers and the glory that attends it hereafter, a theme that has inspired many works notable as pure literature—and in incidental relation, as a means of persuasion, the disparagement of marriage (as if not by sacramental sanction a state of grace) and exposition of its intolerable evils and discomforts of which, nearly contemporary with the *Owl*, the fanatic *Hali Meidenhad* is the familiar example. Independently of this special connection, it may be interjected, marriage, as in every age, is a stock theme for discussion, serious or jocose, worldly-wise warnings, lamentations and what not—examples closely contemporary to the *Owl* are Walter Map's epistle to his friend Rufinus, known to the Wyf of Bath, and the Goliardic *De Coniuge non ducenda*—and marital infelicity is, of course, a commonplace in polite and popular

¹⁰⁸ Raby, F. J. E., *A History of Christian Latin Poetry*, 272, ff.

¹⁰⁹ Raby, F. J. E., *ibid.*, 274.

satire. And the third element is that of courtly love, closely bound up with the troubadour poetry of the South, and its code of *courtoisie*, an influence of inestimable importance, in that, though intrinsically immoral, it was paradoxically to work for good through the elevation of woman and the obligation of chivalric deference toward her, and, passing down to modern times, now apparently in the process of disappearance. This code had made its way northward, chiefly through the patronage of Eleanor and her daughters, and found a notable center in the English court. That which is of consequence here is the association of love with the lyric song of the nightingale, the assumption that lyric verse is, *ipso facto*, love verse; that the nightingale sings of illicit love, its song seduces a knight's wife, it sings near men's houses with intent to beguile. So seems this singing verse and its themes to the owl—and we may say with good reason, if it be understood that we do not commit ourselves to the solemn dictum of the German critic who averred that the love lyric, as the highest expression of the lyric impulse had, therefore, to wait for its development until the 12th century and for the songsters of the South, that both nightingale and owl knew of courtly love which fact is plain enough from unmistakable references—but of courtly love as formalized, or any subscription to it in doctrine or spirit, there is not a trace.

This brief summary may serve to suggest the complex of traditional elements at the back of the poet's mind in taking up love and so well-worn and conventionally patterned a theme as the social institution of marriage with so difficult an element as his starting point, as natural woman and the orthodox view of her weaknesses. Both nightingale and owl have emphatically declared themselves whole-souled upholders of the church, zealous helpers in its offices for good, each in her own way. But the argument does not go as one might expect either as regards that sombre pessimist, the owl, or the light-hearted, tolerant and understanding nightingale. The theme is started early in the poem after the nightingale has charged the owl with singing her song of woe in winter only, clucking like a hen in the snow—whereas she herself leads in the spring in its beauty and the happiness of summer, to which the owl sharply retorts that her way is to help men on and to cheer their hearts when withdrawn

to their homes and hearths, when comes the merry and kindly Christmastide. There's more to this life than mere happiness. You, nightingale, sing only in your breeding season—that over, your voice goes husky, a mere thread. In spring and summer, men forget to take heedful thought of purity and betake themselves to wantonness. Thou art the same for “all thy song is of wantonness wholly.” But when frosts are long and hard times come, then it is seen who is strong of heart and able of body—then it is that I sing.

The theme thus introduced in this passage (vv. 411–542) is left suspended for a while, for the owl checks the nightingale's attempt to break in, and goes on to comment in rebuttal on other matters and prefer charges finishing with a complacent warning to the “chatterbox” to keep silent for she will not be able to find aught to reply. When she does reply, she shifts and doubles, starting new issues. The charge of wantonness reappears when the owl derides the nightingale's pretense that her song leads heavenward, and asserts that her own song rather does that in teaching men to weep rather than to sing. “Yet in another wise,” she says (vv. 893 ff.), “I shall answer thee, for when thou sittest on thy twig, thou drawest men to lusts of the flesh . . . all that thou singest is of wantonness . . .” and then to her accusation that the nightingale does not sing in other lands where there is much more need of this wonderful singing of hers. Even now the nightingale does not answer this repeated charge of wantonness directly, though she admits in passing and defends her practice of living near men's dwellings where lord and lady lie, and of singing to them. That leads the owl to tell the story of the knight and his vengeance and to the nightingale's triumphant refutation of her adversary's slander and her turning of its sequel to her own glorification. Following this, comes the nightingale's graphic and picturesque vilification of the owl as ugly, hated by all. Then the owl makes rejoinder by describing her singular gifts of prophecy which the nightingale counters by accusing her of witchcraft. Then—only now at last—the nightingale addresses herself to answering directly and at length the owl's allegation of wantonness and seductive allurements in her song.

“But yet, thou, foul thing, dost chide me and full grimly dost twit me

that I sing near men's bowers and teach wives to break troth. Thou liest in sooth, thou foul thing! Through me was wedlock never put to shame. But true it is I sing where ladies be and fair maids, and true it is I sing of love—for a good wife may in marriage bonds love better her own husband than anywhere a paramour—and a maid may choose a lover that shall lose her no worthiness, and love with a true love him to whom she yields. Such love I teach and enjoin, of this is all my song. Though some wives be weak of will (for women are yielding by nature) so that they through the craft of some trifler that eagerly beseecheth and sigheth sore, may break away and do amiss now and again—shall I therefor be held responsible? If women think to love illicitly, I cannot from my song refrain. Women may seek their pleasure as they will; or rightly or wrongly; and they may do it through my song—as they will, rightly or wrongly. For there is naught, be it never so good, in this world that may not be turned to ill—gold, silver, weapons—so it is with my song; though it is good, men may take it amiss and divert it to folly and evil deeds.”

“But must thou, wretch, blame love? Be what it may, each love is natural between man and woman—except it be stolen, then it is unnatural and corrupt. May the Holy Rood be wroth toward them that so pervert lawful nature! Wonder it is they go not mad, and so they do, for they be mad that go to brood without a nest. Woman is of yielding nature, and the lust of the flesh is hard to quell—no wonder is it that it should persist. Because lusts of the flesh make them slip, they be not utterly lost that trip over the stumbling block of the flesh. For many a woman hath misdona that riseth up after from the slough. All sins be not of one kind, for that they be of two kinds. Some take their rise from lust of the flesh, and some of the natural inclination of the spirit. Whereas the flesh draweth men to drunkenness, sloth, and wantonness, the spirit errs through malice, anger and afterwards with joy in another's misfortune, yearneth after it more and more and little recketh of mercy and grace, and riseth on high through haughtiness and holds in scorn them that are less. Say me sooth, if thou knowest it, whether doth worse, flesh or spirit? Thou mightst say, if thou wilt, that less is the flesh's guilt. Many a man is clean as to his flesh that is in his heart a mate for devils.”

Then follows a defense of the maid that falls through innocence and the flattery and enticement of one in whom she trusts. Such maids the nightingale cannot help pitying—and then follow the verses (1445–66):

Ne mai ich for reo[w]e lete,
wanne ich iseo þe tohte ilete
þe luue bring[e] on þe junglinge,

þat ich of murþe him ne singe.
 Ich [t]eache heom bi mine songe
 þat swucch luue ne lest noȝt longe:
 for mi song lute hwile ilest,
 an luue ne deþ noȝt bute rest
 on swuch childre, & sone ageþ,
 an falþ adun þe hote breþ.
 Ich singe mid heom one þroȝe,
 biginne on heh & endi laȝe,
 an lete [mine] songes falle
 an lute wile adun mid alle.
 þat maide wot, hwanne ich swike,
 þat luue is mine songes ili[k]e,
 for hit nis bute a lutel breþ,
 þat sone kumeþ, & sone geþ.
 þat child bi me hit understand,
 an his unred to red[e] wend,
 an iseþ wel, bi mine songe,
 þat dusi luue ne last noȝt longe.

From this beautiful passage the nightingale passes to the wedded estate. Here she is brief and pungently plain-spoken. Love that is stolen gets short shrift from her. That is why she does not sing in breeding season. (vv. 1467 ff.)

Ah wel ich wule þat þu hit wite,
 loþ me beoþ wiues utschute:
 ah [w]if mai [of] me nime ȝeme,
 ich ne singe nawt hwan ich teme.
 An wif ah lete so[t]tes lore,
 þah spusing-bendes þuncheþ sore.

Now follows what seems a surprising thing. One would expect that the owl, the gloomy uncompromising moralist, who had so much to say of the wantonness and solicitation to evil in the nightingale's song, would jump at the chance the nightingale offers in defending woman because of her weakness and the maid who yields to her shame. But not so—the owl is glad that the nightingale had closed with this indictment of wives' ill-doing, for *she thought the first part of the nightingale's argument well said*, but this final point ill-considered and mistaken (vv. 1511 ff.):

þe hule was glad of swuche tale:
heo þoʒte þat te nihtegale,
þah heo wel speke atte frume,
hadde at þen ende misnume:

And quite astonishingly—it cannot be a mere pleader's "wrenche" to gain for herself an easy reply, for obviously there was every opportunity to let loose fiery rhetoric on the nightingale's lax condonement of womanly lapses—the owl proceeds to argue really in the same direction as the nightingale, even while condemning her setting apart marital lapses for censure. "I see," she says, "that you have the cause of maidens in mind and push overmuch their defense. To me the 'ladies' (*i.e.*, married women) have recourse and voice their lament," and she proceeds to expound the unhappy state of the wife with a dissolute husband—"small wonder it is, if she despair, if she betray him; these wives I comfort. On the other hand there are many husbands, knights, burgesses, chapmen, farmers who love and cherish their wives, and their wives respond; their only thought is how to please them. These when their husbands are away, I comfort." Then the owl closes by taking up briefly the nightingale's charge that she, the owl, is of use only when dead,—and with that the debate ends—for the nightingale is swift to make outcry that the owl has lost by concession and on a branch lifts a song of pretended victory that brings all the small birds to join in shrill clamor, and thereafter the wren's interference and the departure of all concerned to submit the case to the highly commended Master Nicholas at Portisham in Dorset.

Of all the themes in the poem, the one thus outlined is argued by far the most carefully and at greatest length. The poet does, to be sure, at the close of the passage necessarily and very artistically return to personalities—but very briefly as an effective dramatic transition to the bird-parliament. Not only is it the only theme more or less abstractly discussed and with less close connection with naturalistic traits of the birds (though enough) but moreover, as already said, it is striking in substance. It agrees discriminatingly with time-honored commonplaces—the weakness of woman's flesh, the ills of marriage—and its logic is sufficiently scholastic. It knows of courtly doctrine, for both nightingale and

owl pointedly deny a main tenet of that canon, but there is no trace of its pagan philosophy. In the core of its judgment, to which both birds expressly subscribe, in its ethics and its casuistry (in form scholastic, in its inspiration and appeal, individual and emotional), it is unconventional. Every kind of love (save that come by theft) has warrant—one seems to hear far off the voice of Jean Clopinel; innocence and ignorance, obeying nature, youth eager to know life, call for pity; prenuptial union is only temporarily illicit—the Church will put that right,—and the twain may be together thereafter without censure. Then the owl corrects one error when sympathy and toleration are called for—little blame if a wife pay a faithless husband in his own coin, but (as the nightingale also has asserted) there may well be mutual love, trust, and loyalty.

If the expression of such sympathy and toleration in this special connection is not a usual thing; if further we find this theme given so much space and prominence of position, what is the reason, what contemporary conditions led the poet to do this instead of developing further, as he readily might, the owl's censure of the nightingale's song? The answer is to be found in a movement that took its rise early in the 11th century, manifesting itself in various forms in various parts of the Continent and derivatively in England, and led in England, in the general period of the composition of the poem, to a controversy over a question in regard to which the poet here expresses his judgment.

In the long struggle of Christianity with the indurated paganism of Europe in general, and especially with the barbarism of northern lands which remained implicit in the brutalities of the feudal system, even though society was superficially Christianized, one might mark certain hard-won victories of the Church. The question here is not of the fulfilment of certain simple duties or obligations in daily Christian practice, such as support of the Church, almsgiving, help of the sick, and the like—these things might be done with the left hand—but rather efforts to ameliorate the savagery of incessant feudal warfare, such as the *truga Dei* of the 11th century, limitations laid by chivalry on the terms and conditions of conflict, the obligation to keep troth, to help the defenseless, and the like. Slowly with these

changes, there grew up a humanitarian spirit, a realization of the Christian ideal as directly applicable to the conditions of daily life, such that independent judgment might assert itself against established custom in the world or even entrenched churchly belief and practice. More or less pertinent examples of this are that surprising edict of Coloman, King of Hungary (1095–1114) against the burning of witches, the attempts to do away with tournaments and condemnation of ordeal by battle in the early years of the 13th century.

Certain of these manifestations of an enlightened humanitarianism if within the Church might readily be questioned by strict literalists and moralists as repugnant to churchly doctrine and discipline. The notable example of this is the rise in the 12th century of both regular and semi-irregular monastic orders, indeed in some cases loose associations of persons with hardly a trace of a rule in any proper sense—their bond being little more than a unity of purpose—which in various ways and degrees placed the socializing of the Christian ideal in acts of practical charity above the seclusion from the world and devotion to the contemplative life, traditionally an all-important part of monastic life. That opposition of ideals was, at the close of the century, by his personal example and the force of his character to be best resolved and harmonized by St. Francis.¹¹⁰ Participators in this movement, even when adopting traditional rules, or rules modeled on them, and having the approval and sanction of local authorities in time awoke sharp criticism. We are not concerned with the long history of this impulse or with the more irregular associations formed in the 12th century over the continent in France, Belgium, Germany, Italy. Our immediate concern is with certain special orders in France and their derivate in England. These orders did not limit their membership to elect persons recommended by rank, their family connections, or their financial means. They democratized the monastic life, admitted all, whatever their past, who, sincerely penitent, wished to devote themselves to good works. One, perhaps the earliest, was founded at Fontevraud, France, by Robert of Arbrissel († 1117). "Men

¹¹⁰ Cf. H. O. Taylor, *The Medieval Mind*, I, 381 ff.

and women alike, aroused by his words, were led to reform their course of life. From every side people flocked to his settlements for Robert opened his arms to all. We are told that men of all conditions came; 'women arrived such as were poor as well as those of gentle birth; widows and virgins, aged men and youths, women of loose life as well as those that held aloof from men.'" Still another settlement of similar character was founded at Premontre by Norbert († 1134) of whose work it has been remarked that "women of all classes flocked to his settlements and were admitted into communities by adopting the cloistered life." In England, an order of this nature was founded by Gilbert of Sempringham. It is held to have been established before 1135, the year of the death of King Henry I. Gilbert's "chief characteristic was his pity for the humble and lowly, a trait which attracted the attention of Robert Bloet, Bishop of Lincoln († 1123), as well as other persons of prominence." This remarkable man was well known and admired by William, the first Abbot of Rievaulx († 1145-6); he also had a great deal to do with Ailred († 1166) who became abbot successively of Revesby and Rievaulx. Gilbert also had considerable influence at court; "King Henry II visited him and both the king and Queen Eleanor made grants of land to the order. Henry regarded Gilbert with so much favor that when he was summoned before the King's Court in London on charge of having supported Becket in his exile, the king sent a message from abroad ordering his case to be reserved for royal judgment, which practically meant his acquittal."¹¹¹

In spite of his influence and the success of his work, Gilbert did not escape criticism. The number of Gilbertine houses rapidly increased, and with the spread of the order, especially as open to persons of all degrees and variegated morality, the houses could not remain free from trouble. Even in Gilbert's lifetime, a number of distressing incidents occurred. One of these, the case of a girl at Watton, a peculiarly shocking story because of the revolting cruelty visited both upon her and upon her partner in guilt, by her fellow-nuns, became notorious, a

¹¹¹ Eckenstein, Lina, *Woman Under Monasticism*, 193 ff.

cause célèbre in the chronicles. Another example is that of a smith and a carpenter, admitted out of charity, who abused Gilbert's kindness by dishonesty and immorality. The order of St. Gilbert for nuns and canons was a special object of attack but other conventual houses were shown to be even worse, notably Amesbury, one of the oldest and wealthiest convents, when the abbess was proved to be dissolute and to be leading the nuns in her own evil ways; the facts regarding its dissolution June 20, 1177, are given by Benedict.¹¹²

The recognition of the seriousness of these evils, the savage tirades of hostile satirists, became somewhat of a sensational issue. Gilbert's defense in particular was undertaken by various prominent men such as the Archbishop of York († 1181), Henry, Bishop of Winchester († 1171), William, Bishop of Norwich († 1174). These men as well as Becket, treated the scandals as regrettable mischances and praised the Order in warmest terms. The issue was still very much alive in the '80's. Notable among the detractors was the famous Nigel Wirecker, himself a monk, while giving fanatical vent to his reforming spirit in diatribes against monkish and secular institutions and practices alike, launched into fierce onslaughts against current laxity in conventual foundations. He did not think it right that women be admitted as religious who had been dissolute and that "as a means of preserving chastity they should systematically enjoin hatred of men."¹¹³

In brief, a sharp issue developed and discussion naturally involved the abstract question of woman in general. On the one

¹¹² Benedictus Abbas, *Op. Cit.*, I, 135. Eodem autem die, misit rex de Winleshoris Bartholomaeum Exoniensem episcopum, et Rogerum Wigornensem, episcopum ad abbatiam de Ambesbiria. Et ipsi per mandatum Alexandri summi pontificis deposuerunt abbatissam propter infamiam ipsius. Ipsa enim postquam religionis habitum susceperat, tres infantes peperisse comprobata fuit: et disperserunt sanctimoniales quas earum turpioris vitae infamia deturpaverat; omnes videlicet praeter eas quae relicto turpitudinis suae errore, ibidem remanere volebant jugiter in Dei servitio et tenere ordinem Fontis Ebraudi. Et statim dispersis illis rex misit in Andegaviam ad Fontem Ebraudi pro uno conventu sanctimonialium, quibus abbatiam illam commendare desiderabat. Et ne praedicta abbatissa degradata fame et inopia periret, rex spopondit ei se daturum illi singulis annis decem marcas argenti et permisit eam abire quo vellet.

¹¹³ Eckenstein, Lina, *Op. Cit.*, 199 ff.

hand are those who hold to the old prejudiced anti-feminist view as to natural woman, who argue her essential frailty, the necessity of hedging her, about, the undesirability of admitting to community life those who had fallen, the unlikelihood of their reclamation if once touched with worldly experience. On the other hand, are those who admit woman to be a weak vessel certainly but not intrinsically evil, who believe those who have fallen often sinned against rather than sinning, who believe in their power to reform, even their perfectability under favorable conditions.

It is in the light of this controversy, in my belief, that the discussion of the moral nature and the proper place and treatment of woman in life should be read. It is because of this that the discussion of the nightingale's song as concerned with love takes so special and unexpected a direction. It is because of this that the poet, feeling that in the current controversy only one view can be taken by anyone who has sense and sensibility, makes both the nightingale and the owl—all the more effectively because of the acrimony of their strife—agree measurably in this point, the owl in reality going her one better. And it is because of the interest taken in the controversy—one naturally of prime interest to all monasteries and, as presented, of practical worldly interest in its social relations—that the poet makes this really the leading, as it is the final theme of the poem.

His exegesis cannot readily be paralleled, taken as a whole. We feel that the poet is drawing from his own observation in which he defends the maid whose innocence and ignorance and youthful eagerness for experiment have caused her betrayal and the eager malicious condemnation by her small world. The essential humanity of the poet, touched by her suffering, pictures his nightingale as unable to refrain from bringing what solace she may to such maids when she sees their drawn faces. In this he is not alone—some wandering student, perhaps it was, who voiced like sympathy.¹¹⁴

Cum foris egredior,
a cunctis inspicio,

¹¹⁴ *Carmina Burana*, 88; also *Oxford Book of Medieval Latin Verse*, ed. Stephen Gaselee, 85.

quasi monstrum fuerim:
Cum vident hunc uterum
alter pulsat alterum;
silent, dum transierim.

Semper pulsant cubito,
me designant digito,
ac si mirum fecerim:
nutibus me indicant
dignam rogo judicant;
quod semel peccaverim.

Quid percurram singula?
ego sum in fabula,
et in ore omnium:

.
jam dolore morior,
semper sum in lacrimis.

"For onelapse of honesty the girl has become a monstrosity in the village, a song in all mouths, a mockery; sorrow kills her, chokes her breath and ever she weeps bitterly." The poet knew well the degradation of "such shallows and miseries." There is little justice in judging such a one harshly; he, in his mature understanding of the chances of human existence, of his own personal experience knows rational judgment which alone is the basis of discrimination between sin and virtue must often recede into the background before powerful emotion—one should be slow in condemning what is not deliberate, what is at the moment instinctive, the bidding of nature. "Every love is good that has warrant of nature,¹¹⁵ except it be stolen."

These words, last quoted,—barring the last phrase which seems a side stroke at courtly doctrine—have to our ears the ring of modernity; such latitudinarian ethics one would think far removed from 12th century thinking. The poet is out of sympathy with those who rail upon woman because she yields to the admitted weaknesses of her flesh. He affirms that man's sins are

¹¹⁵ This seems to be a recognition of the force or urge of nature (*vis naturae*) which the famous Goliath in his *Confessio* blames for his falling from grace (*Confessio Goliae*, v. 25, "Res est arduissima vincere naturam.")

often and characteristically sins of the spirit, therefore, more damnable. This particular argument is, of course, not original; it is a commonplace of the schools. Did the poet, possibly know, one wonders, of a certain Latin debate "between a man and a woman"¹¹⁶ in which the question whether man or woman is the more sinful is under discussion between the interested parties? The two debates have much in common. The man endeavors to overwhelm the woman most ungallantly by broadsides of Scripture quotations. The woman reduces him to silence by careful analysis of motive in each case adduced and ends with a *coup de grace*—Eve fell because credulous, Adam's sin was without excuse, for God gave him reason; and when he sinned, he sinned knowingly.

As I have already said, the connection of this notable passage in the *Owl* with the current controversy is admittedly not helpful in fixing a precise date. But I cannot help thinking that the emphasis accorded this special theme, the interest it evidences, the fact that the poet makes both protagonists unite in approval of the tolerant and humane view he favors, point to a close contemporaneous connection with the controversy, a fact wholly in accord with the date I have assumed.

The preceding pages present evidence, facts, deductions in support of a date in the year or close to 1182–83. To summarize the argument briefly: the date of the composition of the poem had been referred to a period after the death of Henry II because of an erroneous interpretation of vv. 1091–2 as necessarily implying his decease. Further, the reference in vv. 1730–34 to "this peace" and its active enforcement can apply only to the peace established by the momentous legislation of the years 1176–81 which proceeded from Henry II and was enforced by his officers. This peace as described and celebrated in contemporary reference and that spoken of in the poem are identical in kind and cannot be explained as fitting the reigns of his successors. The significance of this passage as clearly pointing to the aim of Henry's legislation, and as helping to determine a more precise date, has not before been noted. Hinckley has merely noted in passing that

¹¹⁶ Walther, H., *Op. Cit.*, 137.

"the reference to the efficiency of the king in keeping the peace (vv. 1730-34) and the frequent use of legal terms throughout the poem are more likely, on the whole, to have been written during the reign of a king, who, like Henry the Second, was also a lawyer than under Richard or John. But too much attention must not be given to this point since legal terms, customs and forms are part of the paraphernalia of animal fables."¹¹⁷ By this reasoning the date is placed between the late 70's and 1189, the date of Henry's death. Next, Hinckley's argument for dating the poem on an assumed allusion in vv. 905-10 to Vivian's mission, involving the hypothesis that the poet accompanied him was shown to be untenable, together with the first, and the later substituted covering period for the date which he posited.

Evidence was then offered that this same passage together with what follows it can be explained as inspired by the exile of Archbishop Eystein of Norway in England in 1180-83; the description of "that land" was shown to refer to Norway, to the barbarous followers of Sverrir, to the uselessness of any attempt to bring such a people to a lasting state of grace, as demonstrated by their present conduct despite the missionary efforts "a while back" of Nicholas Breakspear in organizing the Norwegian Church. Other allusions were shown to corroborate or to be consonant with this interpretation. In conclusion the final main theme discussed by the birds, love, illicit and honest, and marriage, was brought into connection with the controversy over the Gilbertine houses and monastic scandals, which led incidentally to discussion of the whole question of woman's place in society. The date assumed fits in well with this assumption, and indeed, receives some support from it.

Thus, from a review of the historical evidence, political, social, ecclesiastical, legal, in relation to such passages in the poem as contain contemporary allusions, I feel convinced that a date 1182-3 or close to the first mentioned, has more to recommend it than any date previously advanced.

¹¹⁷ Hinckley, H. B., *P. M. L. A.*, XLIV, 338.

IV

THE AUTHOR AND HIS PURPOSE

If we are fortunate in that, probably, rather because of its profitable "sentence" than because of its wit and charm, the *Owl and the Nightingale* has been preserved for us, are we also fortunate in that the poem itself has transmitted to us the name of its author?

The answer one gives to this question does not, or should not, depend upon a merely subjective reaction, and a resulting conviction maintained the more stubbornly because it is essentially illogical. If one is wholly captivated by the graphic naturalism of the poem, its dramatic power of reincarnating trite truth and giving them freshness and pungent point in the turn of a line, the broad humanity and sympathetic tolerance of its morality, notably in its individual and unconventional treatment, blending good sense and appealing pathos in touching on questions connected with love and marriage which were then for particular and independent reasons of special interest in courtly and religious circles; especially the conflict of natural impulse with restraints and religious prescriptions—if this whole-souled admiration which surpasses reasoned definition has taken possession of us, we may, as more than one critic has done, refuse to believe that the poet who wrote this "miraculous" poem had it in mind to advance his worldly interests, that he sought for favors from men of power and privilege, the "rich," that it was a cunningly forged letter of recommendation, unashamed in its pretensions, in the writer's interest.

The real truth of the matter is that if we reach such a conclusion, we have refused to bethink ourselves that the poem belongs to an age that was not embarrassed by niceties of conduct that with us have become matters of simple decency. The simplicity of mind that would enable a poet to say to himself "I will write a poem that shall interest all who read it—a debate but between birds like a fable, and I'll touch on this and this and this—and I'll leave no doubt who wrote it, or that I'm serious and experienced and able as well as entertaining, well-informed in

affairs, and not so bad as a poet—it may well be that some of those good things may come my way”; such simplicity of mind we might conceive, but not that a poet could act upon it with such frank directness, and count upon its being understood—for the like was no unusual thing—or that in a society in which preferment depended so immediately upon solicitation and favor, the recommendation of oneself through the beaks of a nightingale, an owl, a wren, would be accounted as a delightful endorsement of a candidate’s merits wholly in order as regards good taste.

The consensus of critical opinion will not help us much here. Among earlier critics of note, Ten Brink, Wülcker, Mätzner, Zupitza, there was a decided hesitation to admit that Nicholas of Guildford suggested and acclaimed by the two disputants as arbiter in such laudatory terms, could be the poet, even though that possibility naturally suggests itself to every one while reading the poem. Probably today the majority of students accept Nicholas as the poet. Wells, it is true, in the Introduction to his edition (p. xxix) closes his conscientiously impartial argument by saying, “Probably we are safest in agreeing with Wülcker in ascribing the poem ‘to an unknown poet who wrote the work in honor of Nicholas of Guildford,’ or at least to an unknown poet who in his poem did honor to his friend.” Such a view is, in a sense, a safe view, but it does in fact involve difficulties quite comparable to those involved in the view it rejects. Wülcker’s arguments, in fact, judged from the modern standpoint, in the light of accrued knowledge, are without weight. He says the poet (*i. e.*, assumed by him to be the poet) tells us that unseen, he heard a debate, while in the poem Nicholas is spoken of as quite a different person, dwelling at Portisham, and that if this poet were Nicholas, he would have come from his hiding place when the birds were starting for Portisham, would have announced himself, and would then and there have rendered his decision. Atkins quite conclusively in his Introduction (p. xliii) answers Wülcker on his own grounds—that there are no indications in the poem that there are two personalities, poet on the one hand, Nicholas on the other; and that the rendering of a decision upon a question in debate was not accordant with the tradition of the form, indeed quite the reverse. A briefer argument might have

served; namely, that the hearer in a debate (often in a vision likeness) is not necessarily actually the author, he is merely a figment, a convention (so in earlier debates, as for example *Hiems et Aestas*). At the beginning he says he was there and heard, at the close he sees the birds go off and can tell no more. Between the first and last lines he is non-existent, the descriptive and narrative matter the more or less brief comments on the conduct of the debate, the proper spirit and method with which to meet exigencies in pleading, are wholly colorless as regards personality, absolutely without dramatic significance or connection, so far as making the hearer a participant in the fable is concerned,¹ while of utmost value as stage-directions indicating the passing states of mind and forensic address of disputants. To believe that the conventional narrator counts in the proceedings would be much like believing that Chaucer came upon John of Gaunt in person clad in his blacks, his back to a tree singing mournfully while Edward, though hunting so imperially, was having no luck.

The only substantial argument that Wülcker urged was that which Ten Brink also urged, namely that if the Nicholas who is also praised were actually the author he would be the most conceited of men. Ten Brink expresses this view in a most interesting way:²

Die Art, wie seine Vorzüge, seine Gerechtigkeit, Klugheit, Weisheit hervorgehoben werden, macht es zwar unmöglich, in ihm den Dichter selbst zu erblicken, weil sich ein derartiges Selbstlob schlecht mit jenem Eigenschaft verträge. Darüber aber kann kein Zweifel sein, dass der Dichter die Grundlinien zum Bilde des Meisters Nikolas seinem eigenen Innern entnehmen konnte, dass er in seinem Freund zugleich sich selbst schildert. Namentlich auch der Zug dürfte auf ihn passen, dass er in früherer Zeit ausgelassen gewesen und die Nachtigall und andere schöne und kleine Geschöpfe gern gehabt, seitdem aber vernünftig geworden und keineswegs durch alte liebe zum Unrecht sich verführen lassen werde.

Ten Brink was so truly gentle of soul that he could not believe, at any cost, that a poet who wrote such a poem could have adver-

¹ Cf. vv. 391 ff., 471 ff., 659 ff., 933 ff., 1067 ff.

² Ten Brink, B., *Die Geschichte der englischen Litteratur*, 2te Auflage, ed. Alois Brandl, 1899, I, 254.

tised himself—yet one thing troubles him perceptibly, to be referred to in a moment. Ten Brink's reasoning seems to be that if Nicholas were as described, he would not so describe himself. But of Nicholas' character we know nothing. Surely, if a man decide to praise himself, he is quite able, if sincere, to ascribe to himself just those qualities that will aid his purpose. Moreover, a man, wholly sincere, may believe himself actuated by and consistently living up to commendable principles of conduct, possessed of certain abilities and acquirements, and recommended by a creditable record of achievement because of them. The further comment in the passage is a little difficult to understand. Why, if the writer of the poem were portraying a friend should he take the outlines of the portrayal from himself and even ascribe to his friend a period of wildness in youth that belonged to his own life? It would seem as if Ten Brink was troubled and puzzled by that reference to youthful wildness, as well he might be, after he had convinced himself that the poem was written in a friend's interest.

Two questions, really, are involved here—whether at the time of the poem a poet would feel himself free to advance his own claims to preferment, and if so, would he venture such extremes of self-praise. Atkins in his helpful discussion of the matter³ stresses the fact that we must not read our notions of what is right and fitting into what a poet might or might not do at the time the poem was written. The question, however, goes beyond the mere insertion of a poet's name in a work to ensure against anonymity, as helping us to understand why a poet should feel free to exploit his claims. Atkins thinks this was a growing practice of the time and instances Orm and Huon Villeveuve (Layamon and others might be added). In point of fact, this was and long had been a frequent practice, especially in Latin works; one might gather a respectable list from Bede down to Geoffrey and William of Malmesbury and Latin authors of the 12th century, not to speak of Cynewulf's special cleverness. More important is the fact that in many cases this is coupled with patronage extended or desired. Subservient adulation marks the accounts of

³ Ed. Introduction, xliii.

the poet's work when a particular patron is addressed—the author's work is as nothing—but when an author recommends himself in his work (often coupled with a charge of neglect as here) he may do himself full justice. In brief, Nicholas, if he was the poet, had plenty of examples before him to follow.

We approach here the further question of the manner in which he advanced his claims. Atkins need not have made a half-apology for quoting a remark of Thomas Wright, than whom, considering his almost unequalled acquaintance with medieval literature, hardly a more competent authority could be found. "The name of Nicholas of Guildford," he says,⁴ "occurs in the poem . . . in a way which would lead anyone acquainted with the manner in which writers of the Middle Ages name themselves, to believe him to be the author." But what gives us pause is the self-praise. Atkins' remark on this point goes to the core of the matter, "It is clear that his motive in so writing would be, not the indulgence of personal vanity but the attainment of a definite personal end." That he had examples enough for such pleas for patronage we have just seen; that he based his plea on merits other than learning or poetic ability is immaterial; the fact in itself of self-praise and the lengths to which he allowed himself to go need not stand in the way. We may illustrate this by examples from literature of his time. Chretien after introducing his name in the 9th verse

Por ce dit Crestiiens de Troies
Que reisons est que totes voies
Doit chascuns panser et antandre
A bien dire et a bien aprandre

and the name of his hero in the 19th

D'Erec, le Fil Lac, est li contes

which in wretched wise before courts and kings is cheapened and spoiled by professional story-tellers calmly remarks (vv. 23 ff.)

Des or comancerai l'estoire
Qui toz jorz mes iert an memoire
Tant con durra crestiantez
De ce s'est Crestiiens vantez.⁵

⁴ Wright, Thomas, *Biographia Britannica Literaria*, 438

⁵ Foerster, W., *Erec und Enid*.

Marie says in her famous prologue⁶ (vv. 1 ff.):

Qui Deus a duné esciēce
e de parler bone eloquence,
ne s'en deit taisir ne celer,
ainz se deit voluntiers mustrer.
Quant uns granz biens est mult oïz,
dunc a primes est il fluriz
a quant loëz est de plusurs,
dunc a esandues ses flurs.

So in Guigemar, her name is entered and her excellence placed above envious criticism (v. 1 ff.):

Ki de bone matire traite,
mult li peise, se bien n'est faite.
Oëz, seignur, que dit Marie,
ki en sun tens pas ne s'oblie.
Celui deivent la genz loër,
ki en bien fait de sei parler.

Or to take a notable example, Giraldus tells us that when a student and lecturer in Paris he had a reputation for brilliancy in the art of rhetoric "praecipuam in arte rhetorica laudem obtinuit" and describes himself as a model of industry and a devoted student.⁷ Similarly in the *Speculum Ecclesiae*⁸ Giraldus tells how he met Serlo of Wilton, poet and scholar, on the occasion of a youthful visit to Archbishop Baldwin. Serlo, seated at the Archbishop's side, saw the young man approaching and prolonging his gaze in amazement, cried, "Think you so fair a youth can ever die."

Other examples might readily be cited especially from Latin verse, Goliardic, or other. It might be suggested here in regard to the seemingly extravagant manner in which Nicholas is praised that it should be remembered, the birds must, following the fashion of the time, use the conventional hyperbole which was elementary rhetorical good manners by sophistic tradition if a person was to be praised at all—not to speak of the humorous

⁶ Warnke, K., *Die Lais der Marie de France*.

⁷ *De rebus a se gestis*, ed. Brewer, J. S., R. S., I, 23.

⁸ Brewer, J. S., IV, 104 ff.

effect we may feel sure the writer and the medieval reader delighted in, to hear such admirable phrases, so appreciative of Nicholas' wise and experienced mind and flawless morals proceeding out of the mouths of birds.

More than once it has been suggested that in certain continental forms of debate the naming of an arbiter carried with it complimentary references to the person so nominated, and that this might be the case here supposing the author someone other than Nicholas. Debates, however, with this feature are occasional in character and specifically designed as compliments without ulterior purpose. It would be difficult to find a debate in which the arbiter was praised, his merits exalted, for the purpose of winning desired patronage for him, as is the case in the *Owl*.

If it is apparent that those dubitations which, especially with earlier students of the poem, militated against accepting Nicholas as poet, may, on historical grounds, be set aside, we have none the less, still to consider the possibility that a friend wrote in his interest, and to show grounds for the belief that it is more probable that Nicholas was the author.

There are two arguments that possess some cogency in this connection. The hypothesis that a friend was the author involves supposing that a poet with his friend's interest at heart writes a poem cleverly contrived to key in with the literary interests and social questions of the day, expends studious care and the fruits of his reading upon the elaboration of a most felicitous idea, and then devotes it to the introduction of his friend's name at the start and his name and address at its close. From this point of view the poem itself becomes a thing separate except as its delightful character ensures a reading of his friend's recommendation. One cannot reasonably suppose that this devoted friend said to himself, "I will give him a 'write-up'—nay more—I will contrive for my poem an action that by its very nature will demonstrate my understanding of the kind of ability I so commend in him." Such a supposition is incredible. On the other hand, supposing Nicholas the author, the form and substance of the poem, and the conduct of the action, immediately find explanation. For after Nicholas is mentioned and the clarity of his

judgment in difficult questions is lauded, and his insight and taste in literary matters is stressed, the conduct of the debate, the legal knowledge displayed, the comment upon its various phases and themes (absolutely impersonal so far as a separate friend-poet is considered), are specifically designed to attest the logical acumen, knowledge of the art of pleading and legal processes, experience of life, literary appreciation and skill in verse, credited to Nicholas at the beginning and close.

The second point—one in which decision admittedly may be considered in delicate balance—is this. Suppose a friend were writing in Nicholas' interest, would he (this it was that troubled Ten Brink and caused his somewhat puzzling explanation) confess for his friend a certain levity in youth? If a friend is writing a poem in a friend's interest, would he recall a friend's wildness? He would surely be silent about it unless that wildness must necessarily be recalled because it remains as a remembered scandal and possible obstacle to preferment. Ten Brink has to suppose it attributive—the writer recalls his own youth and reads it into his friend's—a difficult supposition. How much easier to suppose—what the whole poem warrants—that the poet Nicholas is quite master of himself. He adverts to his own qualifications for preferment, makes the poem itself a proof of them and of his genial and tolerant temper—and is not afraid of being misconstrued in referring to youthful frivolity, perhaps the *vis naturae* that Goliath complains⁹ of, quite confident that he will be understood. Indeed, considering the not uncommon occurrence of such confessions in Latin verse (the famous *Confessio Goliae*, for example), it might almost be regarded as a usual, and, if a man does it himself, rather a creditable thing. In any case, to put the matter squarely, would not a man himself be more likely to do this, than the supposed poet who is taking no end of trouble to shape an elaborate poem to enable his friend to gain increased income by a living or two?

Decision of this question in general will certainly be aided

⁹ Strecker, K., *Die Apokalypse des Goliath, Texte zur Kulturgeschichte des Mittelalters*, herausgegeben von Fedor Schneider, 5 hft., Rev. by E. K. Rand—*Speculum* III, 418. Rand notes Strecker thinks English authorship possible. Rand says, "In the opinion of the reviewer the day may yet come when Walter Map may be admitted to the noble company of Goliath."

by a review of what the poem actually says of Nicholas. This is advisable also because of its bearing upon other matters that follow. Again the point must be stressed that any reader of sense and discernment, with a sense of humor, perfectly well aware that Nicholas is naming himself by indirection as the author, could not resent as shameless but rather be delighted by, the chorus of praise in his honor by nightingale, owl, and wren.

The passages describing Nicholas are in content as follows. After their preliminary spat, the nightingale proposes (vv. 177 ff.) to the owl that they leave off their useless wrangling, and even though they are at odds, proceed to plead the issue with considered judgment, fair words, and mutual consideration, in orderly fashion, each saying what she will in proper form and with reasoned argument. The owl asks (vv. 187 ff.)

"Who shall act as arbiter for us that can and will rightly render us judgment?" "I know well," quoth the nightingale, "that calls for no discussion:—Master Nicholas of Guildford. He is wise and discreet in speech, wise in judgment, all that is unbecoming is repugnant to him. He has an experienced discernment in every sort of song, [he wot insiȝt in eche songe]—who sings right, who sings wrong—and he can discern what is right from what is wrong—the dark from the light."

The owl after thinking a while (vv. 199) replies,

"I agree that he shall judge between us, for though he was once reckless and had a liking for nightingales and other creatures pretty [gente] and small, I wot the heats of youth are now quite cooled [ich wot he is nu suȝe acoled.] He will not be fooled because of you in that he, because of his old love of thee, will let me down and put you above; you shall never charm him so that he will render false judgment for your sake. He is his own man in maturity and steadfastness of mind [he is him ripe & fast-rede] he has no inclination to what is unseemly and foolish, no more desires to sport—he will go in the right way."

Nicholas is sober and discreet, wise of judgment, cautious of speech, has a trained appreciation and taste in literature, and, though he passed through a period of youthful folly, is now master of himself and beyond beguilement. Thus he is pictured at the beginning of his poem. We know his name and his solid merits. There he is left till at the close of the poem we learn more—this time of his present condition and of his deserts. The nightingale has ended the debate by claiming victory through concession. In

the excitement that ensues, the wrathful owl promises to meet violence with violence, reminds the nightingale that they had pledged putting their debate to arbitration, and charges her with being afraid to abide judgment (vv. 1694 ff.). The wren interposes, bids them remember how serious a breach of the king's peace would be—"this peace" with a king so watchful—and adjures them to conclude the issue by seeking a decision. The nightingale agrees, not because of fear of the consequences the wren spoke of, but because of her law-abiding nature and unwillingness that reckless disregard of right should overcome her at the end. Master Nicholas was to be the arbiter—so he shall be—but where might he be found? Through her question, the subject of Master Nicholas is most skilfully introduced in a manner that enables him to be described at length.

"What!" says the wren with surprise, "know you not where he lives? He is living at Portisham, a town in Dorset, near the sea in an outlet.¹⁰ There he delivereth many a right judgment and composes and writes many words of wisdom, and through what he speaks and writes, conditions are better clear into Scotland [þurh his muþe & þurh his honde, hit is þe betere into Scotlonde.]¹¹ "To find him is easy; he hath but one dwelling—that is a great shame to bishops and all who have heard of his name and what he has done. Why will they not take counsel to have him constantly with them to learn of his wisdom, and give him livings in a number of places so that he might be constantly with them?" "Certes," says the owl, "that's true. These men of power much misdo that neglect this good man that has knowledge of so many things, and give livings pretty much hit or miss, and hold him full lightly.¹² To their kinsfolk they are kind and give livings to little children. So their judgment is considered foolish. But anyway, let's go to him, for there the decision we're after is ready for us."

¹⁰ See Atkins' interesting explanation of this term (ed. v. 1754, note) as apparently meaning passes or openings to the sea through the high coast-ridge separating Portisham from the shore.

¹¹ vv. 1756–57. Plainly, as noted above, a playful hyperbole equivalent to "through all England and even beyond." Atkins' suggestion, which would involve taking this phrase as meant literally, that Nicholas was perhaps the author of the rescript of Glanvil's *Tractatus de Legibus* (1187) known as *Regiam Maiestatem*, current in Scotland in the early years of the 13th century would be most interesting if it were susceptible of proof. However well the above theory may accord with the knowledge we have of Nicholas from the poem, the date of the *Tractatus*, 1187 is too late to be considered in connection with the composition of our poem, since all other evidence points to a date 1182–83.

¹² See explanation of this passage, below p. 167 ff.

These passages and such inferences as may be drawn from the rest of the poem, afford the only clues we have as to the identity of the author. Two candidates have been proposed—possibly three if one of these is really two men, the supposition that two references refer to one man being disallowed. Each is but, to adapt Lucan's famous phrase, *magni nominis umbra*. Name and date and association with the diocese of Salisbury or Guildford in particular, are practically the sole claims to be preferred in their behalf. The first candidate was advanced by Gadow¹³ on the suggestion of Dr. Felix Liebermann. A certain *Nicholaus capellanus archidiaconi* witnesses a document (*ca.* 1209).¹⁴ Further, reference is made in an inventory taken at Godalming near Guildford in 1220 to a certain Nicholas,

"Item est ibi capella de Hertmer de Omnibus Sanctis; lignea adhuc quam tenet Nicholaus, submonitor capituli de Gudeford, pro dimidia marca, et tenuit eam iam transactis duobus annis."¹⁵

These two are almost certainly one. There is no evidence connecting this Nicholas with Portisham, or Dorset. One would have to suppose any residence there to have been at some period anterior to *ca.* 1209 for continued residence in or near Guildford from that date to 1220 must be assumed. But that evidence need not be called in. His dates associate him with Guildford, and the Chapter of Guildford, in *ca.* 1209–1220. Was he writing the poem, complaining of neglect, at this time, as assumed? A date at or after 1220 is impossible on the basis of evidence from MS. C. Was he then living at Portisham, delivering judgments and engaged in writing serious matters before 1209? That is possible—but in what capacity, and did he then return to the comparatively humble position of chaplain, later summoner to the archdeacon? It is possible—but wholly conjectural. That the period of neglect might fall as Atkins suggests between 1210–1220¹⁶ is extremely improbable, quite apart from one's interpretation of the various historical references in the poem.

¹³ Gadow, W., *Op. Cit.*

¹⁴ Macray, W. D., ed. *The Charters and Documents Illustrating the History of the City and Diocese of Salisbury* in the 12th and 13th centuries, I, 73.

¹⁵ Jones, W., ed. *Vetus Registrum Sarisberiense*, I, 297.

¹⁶ Ed. Introduction, p. xlvii.

Hinckley, whose date for the poem is 1178, naturally looks with doubt upon this Nicholas as author.¹⁷ He has suggested a "*Magistro Nicholao*," one of *clericis meis* who appears as a witness in a grant by Henry, Bishop of Winchester, to the Abbey of Waverley, which, like Guildford, is in Surrey. This charter may be as early as 1141 (when Henry was at Guildford) and must date before 1171 when Henry died. There is no evidence that this Nicholas had anything to do with Guildford, or anything to do with Portisham, or that he was a man of parts, or that when Henry of Blois died he passed over to Richard; or that Richard loaned him to Cardinal Vivian, as Hinckley suggested, quite apart from the fact that, as proved above, Vivian has no relation to the poem.

Not a single bit of evidence connects this Nicholas with the poem; the connection with the first Nicholas is extremely improbable. It must not be forgotten that there were numerous clerks by the name of Nicholas, especially so near the time of what might be called politely the translation of St. Nicholas to Bari and the excitement over it (one recalls St. Godric). How large a proportion, one wonders, of the babes dedicated at birth to the church, or of those who might assume a name later, were given or chose, the name of Nicholas?—just as the name was given to so many churches. Dr. Baugh informs the writer that during the past summer while engaged in research in London, he came across two Nicholases of Guildford in the rolls he was working upon—he noted them with interest, though neither fitted in point of date.

May now another identification be attempted? Frankly—it would be too much good fortune to expect absolute proof in dealing with a period when certain sources did not exist, but the proof available seems to the writer much more conclusive than for any candidate hitherto considered. At all events the attempted identification may aid in leading some later investigator to further evidence that the present writer, despite every effort, has missed. The candidate now offered was not primarily sought for to fit in with the date, for which evidence has been given above. The date and the candidate followed from the same

¹⁷ *P. M. L. A.*, XLIV, 341.

train of reasoning. The primary object of the poem was not to present an engaging fable—that was incidental, however important. Its object was to present a certain Nicholas for preferment. Therefore, one might count upon its themes and allusion to be contemporary in interest, designed to ensure the reader's close responsive attention, to be readily apprehended by the reader yet permit him to take pleasure in his own understanding and discernment. To illustrate, the long passage on the countries not visited by the nightingale was not designed to draw its chief interest from the fact in natural history concerning the nightingale which is involved and the owl's cleverness in using it to present to the nightingale a difficult leading question—but in that it gave the poet a chance to advert to a contemporaneous topic of the highest interest. So also, the reference to "this peace" and a king alert to see that it was observed, and instant and sure penalties for a breach of it, indicate a very special and significant condition, not a mere general reference, without any particular point or effectiveness. The allusions in every case are to an immediate present, except in the single case when we are told that they happened a while ago—when after the nightingale has described the people of Norway as exhibiting their inbred barbarism, she refers to Nicholas Breakspear's missionary efforts (not so very long ago at that) and their proved uselessness. The allusions are not to remote events, twenty or thirty years or more ago, padding for the poetic fable—they are to matters of instant interest and concern.

This immediacy of adaptation to an end appears in every feature of the poem. The poet is asking for preferment. He is speaking from his immediate world, about matters he knows and has an interest in, using a literary form familiar to him in a special adaptation, and material that has at the moment a special fashionable vogue and appeal; he is addressing those who are familiar with this world and likely to be affected by the nature of his appeal and the manner in which he prefers it. He is a cleric, secular, not under monastic rule. He bears a university degree, is by implication a man of some learning as certainly of some reading. He is more than a man of letters, he is a poet and familiar with current literary interests and influences, not alone

churchly works primarily for edification. He displays not merely such a knowledge of the technique of juridic pleading as might be simulated for the purposes of a debate—which could have been carried on without it—but a trained and expert knowledge of court procedure which he delights in introducing and which he intends shall further his purpose. These capacities and abilities interblend in shaping the poem and determining its main themes and incidental detail. He is a cleric and does not forget it—but he is also a man of experience and of broad tolerance and sensibility. This is shown as often pointed out, in his careful balancing of the ascetic and joyous philosophies of life, displaying the rightful claims and the attendant weaknesses of each. It appears in his criticism of the traditional view of woman's frailty and weakness with condonation of it on philosophic grounds, and also reference to the new courtly doctrines concerning love—and he definitely places himself on the side of humane judgment, having in mind the embittered controversy of his time as to the admission of wayward women to conventual institutions, and the possibility of their redemption though without direct reference to that controversy.

These and similar points hardly need further detailed indication and illustration. But there are two of primary importance which should be briefly stressed. The first is that the poem should not be regarded in any sense as "popular"; Ten Brink, indeed, in his time stressed that. It is not in the least simple, rough, or primitive. The view is wholly in error that often formerly regarded it and still sometimes regards it, as the work of a poet who drew from personal observation of nature, who endowed his birds with the gift of intelligence and spontaneous humor derived wholly from his own genial nature and imagination, who delighted to place in their mouths the homely wit or wisdom of the common folk in its inimitable pithy brevity. Especially this last—we have seen, in point of fact, that among the many gnomic sayings of the poem, four only are truly popular—"hang up thy axe," "'draw to thee,' quoth the carter," "bale highest, boot nearest," and "need makes the old wife run," possibly also the simile of the owl's being like a hen in the snow. Such phrases one might expect an owl and a nightingale to use, but these are in fact

all. On the contrary, their sayings derive from the Fathers and the Doctors, from homiletic literature, from Latin verse, light and serious, and by far the greatest number from the situations and the morals and explications of the bookish fable literature of the time, which was learned and courtly, and not popular at all. Indeed, more than once, after citing a saying, he adds that the truth is also expressed as a popular proverb. The form, the design, the leading themes, the incidental detail—none of them is “popular.” It is the work of a man who knows the upper world of learning and of courtly society, and who addresses himself to it.

A further fact of primary importance is that the poet does not alone show an interest in, and a technical knowledge of, the proper conduct of a formal argument, and the shifts and turns a skilled debater is called upon to use in rebuttal of an opponent’s arguments, or turning them back against him to his prejudice, or adroitly making them serve his own argument, but also as was suggested by Gadow¹⁸ and more fully by Atkins¹⁹ the debate follows the court procedure of the time. The similarity may in fact be shown to be much closer than has, as yet, been demonstrated. There is difficulty, it is true, in proving this point fully, because of the lack of complete information. We have, to be sure, the *Tractatus de Legibus et Consuetudinibus Regni Angliae* ascribed by Roger of Hoveden to the famous Justiciar, Ranulf de Glanville (†1190) but that is limited to the proceedings of the Curia Regis because, as the author points out, “it was impossible in his time to reduce to writing all the laws of the realm, not merely on account of the ignorance of the scribes but also on account of the multitude and confusion of the laws.”²⁰ He is, therefore, content to give a short sketch of the forms of writs used in the Curia Regis to assist the memory of those who took part in the administration of the law and he discusses the principles of feudal right for the most part incidentally in their bearing on the rules of legal procedure. Even here in Glanvil’s monumental work we have not enough evidence to warrant our

¹⁸ Gadow, W., *Op. Cit.*, vv. 5, 550, note.

¹⁹ Edition, Introduction, liii.

²⁰ Preface to *Tractatus de Legibus*, transl. by John Beames, Esq.

drawing analogies between twelfth century legal procedure and that of the poem. However, we fortunately have another work whose value in this connection cannot be controverted; namely, the *De Legibus et Consuetudinibus* of Henry de Bracton. This work though written in the reign of Henry III cites in a number of cases the judgments of Martinus de Pateshull, a judge in the time of King John, whose reign is sufficiently near to that of Henry II to warrant our assumption that the practices of Henry II carried over into the reigns of both Richard and John, neither of whom seem to have been notable legal reformers. Therefore, in tracing what I have conceived to be parallels in procedure, I have followed mainly the work of Bracton, not unmindful of the influence which canon law must have exercised over the poet.

A point not sufficiently stressed in view of the prominence given to it in the poem is the orderliness with which the debate is conducted. It is significant that the nightingale should make the suggestion,

Ac lete we awei þos cheste,
vor suiche wordes boþ unw[re]ste;
& fo we on mid riȝte dome,
mid faire worde & mid ysome
þeȝ we ne bo at one accorde,
we m[a]ȝe bet mid fayre worde,
witute cheste, & bute fiȝte,
plaidi mid foȝe & mid riȝte:
& mai hure eiþer wat h[e] wile
mid riȝte segge & mid skile (vv. 177-186)

in view of her inability to wage an equal struggle with so doughty an antagonist as the owl when the latter suggests that they resort to a duel as a mode of settling their dispute. The nightingale's request that they plead with "decency and order" is observed since the birds' speeches alternate in regular succession and each bird refutes her opponent's charge as it is presented.

The first step in the proceedings is, of course, the charge²¹ (tale) which is stated very carefully after a certain formula. Since

²¹ v. 140.

the appellor's bare word (nude parole)²² will not suffice, she must bring forward witnesses, oath helpers, or compurgators in the form of the *Proverbs of Alfred*.²³ This explanation seems rather far-fetched in view of the fact that the use of proverbs and parallel instances was a common practice in the law-school debates.²⁴ The owl denies the charge and admits her willingness to defend herself by force of arms (v. 150). The wager of battle is not accepted; therefore, the owl proceeds to state her defense (vv. 255-390); (473-542).²⁵ The nightingale is about to bring forward another charge but the owl claims an *exceptio*, or the right to show cause why action should go no further; the owl now assumes the offensive and charges the nightingale with certain misdemeanors from which point the debate "degenerates into indiscriminate revilings."²⁶ I should like to remark here that these revilings are marked with a manifest purpose; namely, to confuse and anger the opponent so that she will make a mistake in pleading, thereby rendering herself liable to amercement.²⁷

A careful examination of the form of the writs and the custom concerning their use will yield some interesting analogies; each kind of appeal had its own form of writ; the appellor states his charge in the exact terms of the writ and the defendant must deny in the exact terms of the appeal.²⁸ Twice in the course of the poem we have this feature suggested (vv. 466-67); in the first instance after the nightingale has attacked the owl's singing and set forth the indubitable merits of her own song, we are informed that the "owl listened and laid in a hoard all this matter, word for word." Again at the end of the poem when the birds fly away to present their case to the judge, the nightingale asks, "Who is there to present our statement, and to speak before this judge of ours?" To which the owl responds, "Set your mind at ease; for I can repeat every word (v. 1786 "worde after worde") from

²² v. 547.

²³ Atkins, J. W. H., ed. Introduction, liii.

²⁴ Walther, H., *Op. Cit.*, 126 ff.

²⁵ Atkins, J. W. H., ed. Introduction, liii.

²⁶ Atkins, *ibid.*

²⁷ Pollock and Maitland, *History of English Law*, II, 519.

²⁸ Henry de Bracton, *De Legibus et Consuetudinibus*, R. S., ed. Sir Travers Twiss, III, 501 ff.

beginning to end (vv. 1782-87)." Besides, the appealed; *i.e.*, the owl, begins her defense by stating in the exact terms the charge insofar as the practice may be observed with due deference paid to the demands of meter and rhyme. The nightingale begins her accusation.

"[H]ule," ho seide, "wi dostu so?
 þu singest a-winter wolawo! (vv. 411-12)

 al þat ho²⁹ singeþ hit is for wowe" (v. 414)

The owl begins her denial in the same words which are contained in the accusation

"þv aishest me," þe hule sede,
 "wi ich a-winter singe & grede." (vv. 473-74)

Then, after the owl has claimed her right of *exceptio*, she becomes accuser

"vor þu art lutel an unstrong,
 an nis þi regel noþing long." (vv. 561-62)

 "þu art dim an of fule howe,
 an þinchest a lutel soti clowe;
 þu nart fair, no þu nart strong,
 ne þu nart picke, ne þu nart long": (vv. 577-80)

The nightingale's vehement denial occurs later in the following verses:

"Wi atuitestu me mine unstrengþe,
 an mine ungrete & mine unlengþe,
 an seist þat ich nam noȝt strong,
 vor ich nam noþer gret ne long?" (vv. 751-54)

Another charge made by the owl against the nightingale has to do with the usefulness of the latter:

"Seie me nu, þu wrecche wiȝt,
 is in þe eni oper note
 bute þu hauest schille þrote? (vv. 556-58)

²⁹ The ho in this verse refers to the hen to whose singing the owl's is likened in the preceding verse.

Wat dostu godes among monne? (v. 563)

.
Of þe ne cumeþ non oþer god,
bute þu gredest suich þu bo wod:
an bo þi piping ouergo,
ne boþ on þe craftes namo." (vv. 565-68)

The nightingale's denial of this charge is found in her reply:

"[H]ule, þu axest me," ho seide,
"jif ich kon eni oþer dede
bute singen in sume tide,
an bringe blisse for & wide,
Wi axestu of craftes mine?" (vv. 707 ff)

Again the owl takes the offensive in her query as to the places where the nightingale sings:

"[w]i nultu singe an o[þ]er þeode,
þar hit is muchele more neode?" (vv. 905-6)

whereupon the nightingale replies

"ʒut þu aisheist wi ich ne fare
into oþer londe & singe þare?" (vv. 995-6)

Still another charge which the owl makes against the nightingale is in regard to her habits:

"þan ich flo niȝtes after muse,
I mai þe uinde ate rum-huse;
among þe wode, among þe netle,
þu sittest & singest bihinde þe setle": (vv. 591-3)

It would appear that the owl had accomplished her purpose in the statement of this charge; namely, to anger her opponent; nevertheless, the nightingale senses trick in time to save herself from making a mistake in pleading, for she ruefully remarks to herself that seldom does an angry man plead well. Her denial of the arraignment betrays none of the indignation she feels:

"þu seist ich fleo bihinde bure:
hit is riht, þe bur is ure: (vv. 957-8)

.
Sholde ich, for one hole brede,
forlete mine riȝte stede, (vv. 965-66)

Finally, the nightingale succeeds in angering the owl by asserting that men are angry with her because of her prophecy of disaster:

“þu singst þar sum man shal be ded:
euer þu bodest sumne qued.
þu singst aȝen eiȝte lure,
oþer of summe frondes rure:
oþer þu bodes[t] huses brune,
oþer ferde of manne, oþer þoues rune;
oþer þu bodest cualm of oreue,
oþer þat londfolc wurþ idorue,
oþer þat wif lost hire make;
oþer þu bodest cheste an sake.
Euer þu singist of manne hareme,” (vv. 1151–61)

The owl does not deny her gift of prophecy; on the contrary she boasts of it but also claims that harm comes not through her foreknowledge but because of the will of God. She admits her prophetic gifts in the following words:

“For ich am witi ful iwis,
an wo[t] al þat to kumen is:
ich wot of hunger, of hergonge:
ich wot ȝef men schule libbe longe:
ich wat ȝef wif lus[t] hire make:
ich wat þar schal beo niþ & wrake;
ich wot hwo schal beon [an]honge,
oþer elles fulne deþ afonge.
ȝef men habbeþ bataile inume,
ich wat hwaþer schal beon ouerkume:
ich wat ȝif cwalm scal comen on orfe,
an ȝif dor schul ligge [a]storue;
ich wot ȝef treon schule blowe:
ich wat ȝef cornes schule growe:
ich wot ȝef huses schule berne:
ich wot ȝef men schule eorne oþer erne:
ich wot ȝef sea schal schipes drenche:
ich wot ȝef snuw[e] schal uuele clenche. (vv. 1189–1206)

.

ȝef eni mon schal rem abide,
al ich hit wot ear hit itide.” (vv. 1215–1216)

From the foregoing quotations it will be readily seen that the defense corresponds to the charge except where the ideas of the charge are in the defense expanded, amplified, further explained.

It has already been suggested that the appeal must be made in the terms of the writ and that the defendant must make his defense in terms of the appeal. He must be a very confident person who can run the course of a law-suit without being fined for an omission or an error. Some omissions may cause the plea to fail as, for example, a plea fails through failure to mention the king's peace;³⁰ a plea also fails unless there is mention of a felonious act. Curiously enough our poem possesses both of these features which fact may further bear out the theory of its analogy with a twelfth century law-suit. The wren's admonition to the quarreling birds supplies the mention of the king's peace (vv. 1730-31) and further a breach of the king's peace constituted a felony.

The consent of the birds to laying their case before Master Nicholas presents an interesting parallel to a form instituted by Henry II; *i. e.*, presentment before the king's justices.³¹ We are informed that complaint ought to be made to one who has jurisdiction, as to a prince and not to everyone who has jurisdiction unless he has with jurisdiction coercion that he can commit his judgment to execution.³² Master Nicholas, the king's representative, has powers both of jurisdiction and coercion and therefore, may bring his judgment to execution; with an eye on legal procedure, one must approve the birds' choice of an arbiter. Further, since the complaint must be made immediately,³³ the birds immediately fly off together to his court.

One of the features of the trial, the *exceptio*, treated by Atkins, has not been fully treated or its importance sufficiently stressed. The number and kinds of exceptions varied with the plea. It is worth while noting that the defendant may use divers exceptions provided he uses them in the right place. Exceptions are dilatory as regards action and not peremptory; general exceptions

³⁰ Henry de Bracton, *Op. Cit.*, II, 437-39.

³¹ Pollock and Maitland, *Op. Cit.*, II, 517-18.

³² Henry de Bracton, *Op. Cit.*, III, 105.

³³ Henry de Bracton, *Op. Cit.*, III, 107.

may be propounded against jurisdiction, against the plaintiff, or against the writ; those propounded at the beginning of the suit are designed to prevent the suit from proceeding; these are against judgment or the persons judging.³⁴ It is to be remembered that there is no exception made to the judge Maister Nicholas (vv. 191 ff.) for the very obvious reason that such exception at this stage of the trial would put an end to the proceedings because exceptions propounded at the beginning of the suit are so instituted that the suit may not proceed; therefore, the owl agrees to the nightingale's choice of judge, even though she knows that he at one time was partial to nightingales; it is the poet's design that he may advance his claims through the display of legal knowledge.

In connection with the *exceptio*, the manner of proving has some bearing upon our poem; one of the modes of proving one *exceptio* is "through a dead voice"³⁵; in this connection, we are reminded of the use of the proverbs of Alfred by both the owl in her *exceptio* and the nightingale in her *replicatio*.

If the poem follows the procedure of the twelfth century trial, what shall we say of its method and spirit? Atkins has pointed out some of the characteristics³⁶ such as the trick of angering one's opponent so that he may make a mistake in pleading, and the effort to show that an appeal was the result of malice and hatred.³⁷ It is obvious from our poem that the twelfth century was not far behind the thirteenth³⁸ in its ability "to litigate, to cavil cunningly, to overreach the simple." The owl is charged with using "unwrenche" (v. 169) by her adversary who characterises her *passes* as skill. The nightingale, when hard-pressed by the owl's irresistible logic, resorts to duplicity as is indicated by the incidental comments upon the nightingale's dilemma; "the man whose heart is in narrow straits must work cunningly, he must speak with dissimulation, he must be wary of his words lest the mouth betray its secrets and the heart within be revealed."

³⁴ Henry de Bracton, *Op. Cit.*, III, 207.

³⁵ Henry de Bracton, *Op. Cit.*, VI, 159.

³⁶ Atkins, J. W. H., Ed. Introduction, liv.

³⁷ Henry de Bracton, *Op. Cit.*, II, 435.

³⁸ Wright, Th., ed. *Political Songs of England*, 47.

The owl is sufficiently alert to detect her antagonist's treachery and to assert her astonishment that the nightingale has the temerity to utter ambiguities, to color her speech, to lie so openly, to make all seem plausible (vv. 838-53). Such expressions as the poet uses to set forth these ideas, "swikelede," "bileist," "be-semed," "biliked," are reminiscent of the expressions "fraud," "guile," "deceit," a formula which appeared in the oaths of the time.³⁹ They are likewise reminiscent of a fable concerning the cat and the fox as it is told by Odo of Cheriton of which the nightingale makes use in defending her one artifice, her skill against the owl's many tricks. In this connection, it is significant that Odo has made the fox symbolize the type of cunning lawyer while the cat represents the simple person without knowledge of the tricks of the legal profession. In the poem, it is the nightingale whose situation is analogous to the cat's and the owl's to the fox's; thus by the mathematical process of cancellation the nightingale becomes identified with the simple person and the owl with the tricksters in the legal profession. In the moral of his tale Odo carries his symbolism still further by treating us to a picture of the same wicked lawyer in hell, where the hunter is a symbol of the devil and the hounds of demons. The idea of skill versus tricks is further stressed in the poet's figure of the wrestling match (v. 795) and also skill versus strength (v. 765) which avails the horse little since he must be subject to the will of man. Whatever construction one may place upon the poet's symbolism, one fact cannot escape the notice of the reader that skill, inherent ability, is placed in contrast to the use of tricks, legal technicalities which the less gifted man uses to eke out the insufficiency of his skill.

If now we may infer from internal evidence that the poet was a cleric, a man with a university degree, a poet who used a special literary mode, the Latin debate, one really narrowly literate in its tradition; further that his use of it was cleverly individual, that his two disputants and by far the greater part of his material were drawn from a form of literature that was then enjoying a learned and courtly vogue, the fable, not the popular fable, but the

³⁹ *Ancient Institutes*, I, 1ff.

learned fable of long tradition from classical times, and also from Latin religious and purely polite literature, and that his incidental themes are such as were of special interest at the date ascribed to it above: if, further the art of juridic pleading and still more the actual observance of court procedure with its special obligations and restraints appear impressed upon the poem and if there is definitely signalized in the poem a specific reference to "this peace" as one enforced by the personal authority of an alert and active king—then the question immediately suggests itself whether the Nicholas, presumptively the poet, who is praised as rendering wise judgments, may not have been one of the itinerant justices under Henry II's appointment to enforce "this peace," who uses and displays his knowledge through this delightful plait of the birds, bringing into it themes of immediate contemporary appeal, and demonstrating also his gifts as a poet, and scholar, and his reputation as one mature, discreet, sober, and experienced.

This conclusion suggested itself to the writer as a natural consequence from the evidence, and quite independently of the fact that Gadow casually suggested the same possibility.⁴⁰ His words are:

Nichole mit dem Zusatze 'of Guldeforde' der vermutlich seinem Amtsnamen darstellt, war offenbar ein Mann geistlichen Standes, da er stets 'Maister' (Magister) Nichole genannt wird. Des Näheren war er sicherlich ein geistlicher Gerichtsbeamter (vv. 197, 1755); seine Urteile sind weithin bekannt und seine Tätigkeit, vermutlich als Reiserichter, erstreckt sich über ganz England (into Scotlonde 1758)."

But Gadow did not follow up his interjected suggestion in any way. He had the notion of some clerical and judicial position in his mind and it was he who proposed Nicholas the summoner of the Chapter of Guildford as the poet. Hall⁴¹ likewise looking for some sort of position involving professional interest in the law, suggested that the poet might have been a "bailiff of the hundred court, or steward of a manor, or commissary for the neighboring Abbotsbury," but made no effort at identification.

⁴⁰ Gadow, W., *Op. Cit.*, 12.

⁴¹ Hall, Joseph, *Selections from Early Middle English*, II, 567.

As a result of a search among the names of justices connected with the southern counties I am inclined to believe that the Nicholas of Guildford mentioned in the *Owl* may be identified with one whose name appears in the chronicles of the time, and also in the financial records of the reign of Henry II. Further, the conditions under which his name appears seem to coincide well with the circumstances under which we have inferred that Nicholas of Guildford lived and wrote.

The name I propose for the authorship of the *Owl* is Nicholaus, filius Thoraldi, which name appears in the chronicle of Hoveden⁴² and also in that of Benedict of Peterborough⁴³ under the year 1179 in connection with Henry II's reorganization of his judicial system. The name of Thorold, Thorald, Torold, Tuold (Thoroldus, Thoraldus, Tuoldus) is a fairly common name in families of Scandinavian ancestry, whether English or Norman, and therefore, may be found rather widely distributed, and without any special likelihood in the particular case that the bearer is of Anglo-Scandinavian descent or Norman, except that if from northern counties there is a slight presumption that he is the former, and if of the South, an even more slight probability that he is a Norman. There is no certainty. Persons in important ecclesiastical positions are rather likely to be of Norman blood.⁴⁴ It is interesting to note that the same conjunction of the names of Nicholas and Thorold (here Tuoldus) appears twice in the *Great Roll of the Pipe* for the reign of Henry II:

Tuoldus pater Nicholai debet j m. pro eodem plegio (i.e. Nicholai de

⁴² Roger of Hoveden, *Op. Cit.*, II, 190.

⁴³ Benedictus Abbas, *Op. Cit.*, I, 238-239.

⁴⁴ For example, Tuoldus Vicomes bestowed his manor of Bukenhale on Croyland Abbey and in 1051 Sheriff Thorald, designated as of his kindred, gave his manor of Spalding to the Abbey (Ingulph's *Chronicle of Croyland Abbey*, 236 ff.) In the list of under tenants in *Domesday* the name Tuold appears in nearly every county. "Tuoldus Abbas" appears twice in Lincolnshire (Ellis, Henry, *General Introduction to Domesday Book*, I, 246 ff.). One of these is mentioned by Dugdale (*Monasticon Anglicanum*, I, 349) as Abbot of Peterborough, 1069-1098 or 1100, and designated as a Norman. The former appears in a precept of William Rufus to the Abbot of Ramsay (*Regesta Regum Anglo-Normannorum*, ed. H. W. A. Davis, I, 104) as Tuold, chaplain of the King, of whom Davis notes that he is probably the Tuold who later became Abbot of Bayeux. Dugdale mentions a Tuold as becoming Abbot of Fountains Abbey in 1146, and as resigning shortly after.

Barlega), Hardulfus de Barlega debet ij m. pro eodem plegio, Petrus frater Nicholai debet j m. pro eodem plegio.⁴⁵

Again.

Tuoldus pater Nicholai et Petrus filius (lege frater) Nicholai reddt. compt. de ij m. pro plegio Nicholai de Barlega. In thesauro liberaverunt in ij tallis. Et quieti sunt.⁴⁶

There is, of course, no association with the Nicholas of the poem. The association of these persons is with Lincolnshire and the payments are probably those made to Barlega as a result of the king's writ. As regards the Nicholas of the poem, we cannot be sure even, whether he was of Anglo-Scandinavian or Norman descent. It is a pity that, assuming Thorold or Tuold, a family name, we cannot support a conjectural descent, from the famous Tuoldus whose name appears in the last line of the Oxford *Roland* "Ci falt la geste que Tuoldus declinet," whether as scribe, rescensionist, or poet.

However, the pertinent facts concerning Nicholaus, filius Thoraldi are as follows:

During the years 1175-80, Henry II, in course of his remarkable series of legal reforms, reorganized the judicial system of the realm, establishing four circuits served by a number of itinerant justices. For these offices at various times, he seems to have employed sheriffs, members of his own household, and clerics, chosen no doubt as educated men with some legal knowledge. First, he used the sheriffs of the communities where they were located to try the cases and upon finding them incompetent, he dismissed them all and installed in their places men from his own household much in the manner of an Oriental despot; later, at a great council at Windsor in 1179⁴⁷ he divided the realm into four parts, placing in charge of each district a group of men taken from the sheriffs of his realm, from his own household, and from the church. More particularly are we interested in the justices appointed for the first district which comprised⁴⁸ Suthamtesire, Wiltesire, Gloucestresire, Dorsete, Somersete, Devoniarum, Cornubia, Berkesire, Oxenefordsire, and the justices who were

⁴⁵ *Great Roll of the Pipe*—26 Henry II, XXIX, 139.

⁴⁶ *Great Roll of the Pipe*—27 Henry II, XXX, 13.

⁴⁷ Benedictus Abbas, *Op. Cit.*, I, 238.

⁴⁸ *Ibid.*

to preside over the courts in this district were Ricardus, episcopus Wintonae, Ricardus thesaurarius regis, Nicholaus filius Toroldi, Thomas Basset, Robertus de Witefeld. The king's arrangements were subject to constant change as we shall see. Of the nine counties which had been assigned to the first of the four circuits, five are known to have been visited by three of the group of justices; namely, Devon, Dorset, Somerset, Cornwall, and Wilts. For Hampshire the names are not given: Oxfordshire was transferred to the northern circuit; Berks was visited by judges from two circuits and Gloucestershire by yet another combination. It is singular to notice that the bishops assigned to preside over the three circuits are nowhere mentioned in the rolls among the justices although the chronicles speak of their acting in the summer of 1179.⁴⁹

In the year 1179-80, we find mention of new pleas before Richard the King's Treasurer, Nicholas, the son of Turolde (as the Great Roll of the Pipe has it) and Robert of Witefeld, in the five counties of the southern circuit before named. According to Hoveden, Nicholas served only one year as Justice⁵⁰ but more than likely in the continual shifting of justices, the chronicler lost sight of Nicholas' activities during the next two years for the Roll of the Pipe notes that for the year 1180-81, he was hearing pleas together with Robert Witefeld in Dorset and Devonshire⁵¹ and the following year 1181-82, he was acting with Robert Witefeld in Dorset.⁵² The next year 1182-83 his name does not appear among those listed as justices. At this time, Henry again changed his judicial arrangements. The eyre for the northern portion of the kingdom was conducted by Thomas Fitz-Bernard, Robert de Witefeld, Alan de Furnellis, by whom pleas were held in Northumberland, Cumberland, Westmoreland, the County of Lancaster, Yorkshire, Lincolnshire, Derbyshire, Notts, Staffordshire, Shropshire, Herefordshire, Worcestershire, Warwickshire, and Leicestershire. They also sat at York and at Carlisle. The southern eyre was that of Roger Fitz-Reinfred, William Ruffus, Michael Belet, who visited Northants, Huntingdonshire, Cam-

⁴⁹ *Great Roll of the Pipe*—26 Henry II, XXIX, Introduction, xxv.

⁵⁰ Roger of Hoveden, *Op. Cit.*, II, 190, Note.

⁵¹ *Great Roll of the Pipe*—27 Henry II, XXX, 8, 30.

⁵² *Great Roll of the Pipe*—28 Henry II, XXXI, 111.

bridgeshire, Norfolk, Suffolk, Essex, Herts, Beds, Bucks, Berkshire, Surrey, London, Middlesex, Sussex, Hampshire. In addition to these there seems to have been a southwestern circuit, the great Glanvil visiting Dorset, Somerset, Cornwall in conjunction with Michael Belet, and Devonshire, perhaps by himself.⁵³

The question now arises why was it that Nicholas disappeared from the lists of justices at this time. To suppose that the shift in the system left no place for him, or to suppose incompetence or malfeasance, is but conjecture. One significant fact stands out—namely, that all the other justices appointed at the same time who were ecclesiastics had before received preferment. Notable among these were John Cumin⁵⁴ who was elected Archbishop of Dublin in 1181, and Nicholas capellanus regis, who became dean of St. Julian's at Le Mans and afterwards bishop there.⁵⁵ The sheriffs were reappointed as justices or sheriffs and those connected with the king's household continued in his service. I have already indicated that the names of the bishops who were appointed at the Council of Windsor to head each of the three groups of justices in April 1179 do not appear on the rolls as trying cases. The reason becomes obvious when one recalls that the Lateran Council held in Rome in the spring of 1179 forbade that those holding benefices from the church should engage in secular occupations.⁵⁶ The decree of the Pope was responsible for the three bishops being dropped from the rolls, as itinerant justices; the other ecclesiastics in the group were provided for by the king as I have indicated above; only Nicholas who seems also to have been connected with the church remained without preferment. With this obvious slight of his service in mind and with the way to advancement barred by papal decree, Nicholas would probably appeal to the king and the method he would use would be one that had been long in practice, namely the submission of a literary work. This might be one formally dedicated by permission, or directly addressed in the hope of aid to the desired patron, or one

⁵³ *Great Roll of the Pipe—29 Henry II*, XXXII, Introduction, xxiv.

⁵⁴ Roger of Hoveden, *Op. Cit.*, II, 263.

⁵⁵ Roger of Hoveden, *ibid.*, II, 190—Eyton in *Court, Household, and Itinerary of Henry II*, 226, says he was appointed Archdeacon of Coventry, between April 10, 1179 and July 30, 1179.

⁵⁶ Benedictus Abbas, *Op. Cit.*, I, 236.

addressing a desired patron by incidental laudatory reference. It is characteristic especially of the latter, that the plea for aid is based upon representations of poverty or neglect quite undeserved in the light of the writer's more or less unabashed recital of his aspirations, merits or achievements. Examples of such work especially those formally dedicated are so numerous that it is not necessary to cite instances. Of cases less formal in character one might adduce Baudry's vision poem to the Countess Adela, William the Conqueror's daughter in the hope that the lady would give him a gold-embroidered and jewelled cope or the *Confessio Goliae*, submitted to the great chancellor, Rainald, Archbishop of Cologne, and also in the English version apparently to a bishop of Coventry, perhaps Hugh de Ninant, addressed as *praesul discretissime*, *praesul Coventrensiūm*.⁵⁷ Examples coming under the last category of the general type of complaints or epistles mendicant, are not so easy to find in vernacular literature but there are examples enough among Latin clerical verse.⁵⁸

Incidental passages complaining of neglected merit, as in Giraldus, for example, are far from infrequent. That no parallel case of a poem so elaborately built up as the *Owl* may be readily forthcoming is quite immaterial. So clever a poet as the author surely needed no example to give him the idea. Indeed, it would require not much more cleverness than Baudry's magnificent glorification of the beauty and richness of Adela's bed-chamber to give point to his plea for a rich cope for himself.

The question whether the *Owl* was a special epistle commendatory and mendicant, or an encyclical, may be left until its special purpose is discussed. Our present concern is with the identity of Nicholas, the itinerant justice. The evidence is briefly, as follows:

1. The Nicholas of the poem is designated Nicholas of Guildford. But he was not living at Guildford—his birthplace, or place of residence when the name was appropriated to him. The poem tells us that his dwelling is at Portisham in Dorset—he has but one dwelling (vv. 1752–1760).

⁵⁷ Raby, F. J. E., *A History of Christian-Latin Poetry*, 282, 294. Wright, Thomas, *Latin Poems*, 71–75.

⁵⁸ Cf. K. J. Holzknecht, *Literary Patronage in the Middle Ages*.

The justice, Nicholas, in the records we have of him, is associated with five counties of the southern circuit, Devon, Dorset, Somerset, Cornwall, and Wilts, and notably, it would seem, with Dorset. In 1179–80, in these five counties new pleas are heard before Richard, the King's Treasurer, Nicholas, and Robert of Witefeld. In 1180–81, he and Robert are hearing pleas in Dorset and Devonshire, and in 1181–2, in Dorset.

2. The poem expressly tells us at the time of its composition that Nicholas is engaged in delivering judicial decisions and in literary composition.

þar he demeth manie riȝte dom,
an diht & writ mani wisdom,
an þurh his muȝe & þurh his honde
hit is þe betere into Scotlonde. (vv. 1755 ff)

Just before (vv. 1735 ff.) the wren has warned against the case's becoming involved in violence and griþbruche—and the nightingale has hastened to give assurance of her respect for the law.

The precise accordance with the professional duties of the justice, Nicholas, is apparent. The phrase "his muȝe" is particularly striking as indicating decisions orally delivered. The phrase "hit is þe betere into Scotlonde" has already been explained above as hyperbole and must not be taken as literal.

3. The description of Nicholas at the opening of the poem is peculiarly appropriate to one holding a judicial office (vv. 192 ff.); "wise, cautious in speech, discerning in judgment, holding every unbecoming trait loathesome, able to discriminate and dis sever right from wrong."

4. The poem was composed by one familiar with court practice and the technique of pleading.

5. The evidence which the poem contains not alone to the effect that the poet is a man of education and well-read in homiletic literature and lighter Latin literature also, but also that he is conversant with current courtly literature—every kind of song—fits in well with the assumption that he held the dignified office of justice.

6. Proof has been offered above that the poem must date in 1182 or near it. Quite independently of this proof, and some-

what to the writer's surprise, it was found that the record of Nicholas as justice ends in the year 1181-2. It will be seen that this is an important item of evidence.

7. It is said for the Nicholas of the poem that he has suffered neglect which should be considered shameful in view of his proved merit. Nicholas, the justice, had seen other clerics, his colleagues, given preferment. With a career in jurisprudence barred by papal decree, he turned to the church for advancement, for an income in keeping with his ability, through one or more livings or a living with additional salaried offices ("an gíve him rente avale stude," v. 1767).

Certain apparent objections to this identification prove readily, upon examination, to be without force. The first is that none of the references to the justice Nicholas, designated only as *filius Thorwaldi*, connects him with Guildford. Here the important point to recall is that the poem expressly tells us that its Nicholas is in residence at *Portisham*, stressing the point by the nightingale's question and the surprise expressed in the wren's reply, and by the repetition of the name of the town at the birds' departure. Nicholas is referred to as "of Guildford" only at the beginning of the poem. As regards the justice, references in historical and financial records would not make use of a cognomen drawn from a birthplace or family or personal residence, because such mention would lead to confusion and misunderstanding as regards the place of his professional employment. This plainly appears in the fact that the names of judicial and financial officials in the chronicles and in the rolls are identified by either a surname or father's name, not a place-name. In no single case has the writer found a royal official designated by such a place-name.

The same holds true of the title "Magister," "Maistre." This title appears in ecclesiastical documents, as might be expected, and its use in the poem is wholly natural as indicating clerical standing, and distinction in point of learning. But it is not used in the records in the case of clerics functioning as civil officers of the Crown, again, as in the case of place-names to avoid misunderstanding because casual use or omission might cause uncertainty.

A third possible objection depends upon the answer given to a

question to which really no determinate answer can be given—one that has bearing both in this connection and with reference to the direction of the poet's plea for preferment. What relation does the fact that the poet wrote in English bear to the proposed identification and to his hope of recognition? The subject of the relation of English-speaking and French-speaking persons in England from the Conquest on is one in regard to which it is impossible to assemble adequate information or to formulate other than speculative conclusions. Special instances, incidental inferences are the only evidence; we still unconsciously revert to the old dramatized conception of a racial and social severance instead of remembering that the relation was almost wholly a social one. As Shelly phrased it, in writing of the period immediately after the Conquest:⁵⁹

Even today many of us, it seems, have a mental image of an England for generations after the Conquest divided into two camps—the two peoples, French and English, living separately in the land, distinguished one from the other by race, tongue, manners, and rank; the one moved by a bitter, persistent and almost universal feeling of hatred for their conquerors and oppressors; the other filled with arrogant pride and contempt for their inferiors.

Shelly's conclusions are especially worth noting because the period he covers is so early. After reviewing all available evidence, and pointing out how modern writers have misconstrued or sensationalized special cases, he feels that, while one is dealing with probabilities rather than certainties, it seems warrantable to believe that there,

was no sufficiently developed national unity or sentiment to cause a hard and fast line to be drawn between native and foreigner or to check freedom of intercourse; that there was at no time any English hatred of the Norman that was at all general, nor was there any general feeling of contempt on the part of Normans for the land or the people they conquered; that in spite of whatever hatred and contempt there may have been, there was contact and intercourse between the two peoples, often close and cordial; that Englishmen and Normans from the first constantly heard each other's tongue,

⁵⁹ Shelly, P. V. D., *English and French in England*, 1066–1100, 8.

and close contact necessitated that many persons must have become more or less bilingual; and that, as a language of record in this period, English is of greater importance than French and the effect of the conquest was to increase the use of Latin, as opposed to French as well as English, for legal, historical, and religious purposes.⁶⁰

While it is not possible to review Shelley's evidence in detail, and while one must guard against generalizing from single instances as he does, it is worth while to note one curious and striking case. Orderic, the historian, was born in England in 1075, the son of a Norman-born priest, Odelirius, and a mother presumably English (or the case would be still more striking). The connection was apparently not clandestine. Odelirius, active in the local clerical life and counsellor to Roger de Montgomery, watched over his son's education, and the boy studied Latin with an English priest before, at the age of ten, he was sent to St. Evroult in Normandy. Then he says, "*linguam, ut Joseph in Aegypia, quam non noveram audivi.*" This can only have been French, and it seems to follow that his father, of whom he speaks affectionately, must have talked with his mother, and with him, in English—twenty years after the Conquest.⁶¹ But the reader must be referred to the whole monograph for the evidence that confirms the belief that "many circumstances necessitated or encouraged Englishmen to learn French and Normans to learn English," that there was constant and close intercourse "in the army, at the King's court, in the courts of law, in the manor courts, in the church and monastic life of the time, in the commercial life of the towns, and in the domestic life of the home," that the probability is practically a certainty that many Englishmen were able to speak French and many Normans including clerics, English.

While Shelly's carefully guarded conclusions seem reasonable so far as general judgments are possible in regard to an unsettled social state necessarily full of contradictions, it must be remembered that the period he covers was a period of accommodation and that conditions might and did in fact, change. In contrast, one may turn to quite a different view—that of Vising.⁶²

⁶⁰ Shelly, P. V. D., *ibid.*, 93 ff.

⁶¹ Shelly, P. V. D., *ibid.*, 85.

⁶² Vising, J., *Anglo-Norman Language and Literature*, 8 ff.

He points out how the relatively small number of men with the Conqueror was enormously increased during his reign, while possibly a fourth of the English population was lost by death or in flight, and constant immigration continuously and enormously increased the French element for two centuries, and in all classes including artisans and other working folk. His conclusion is that "In the sequel, the French language took possession of the literature in England—religious as well as secular—and became the common language of all practical intercourse. The history of Anglo-Norman literature will be set out in Part II, where it will be shown how rich it was in the twelfth and thirteenth centuries, whereas English literature is scanty and of poor quality during the first century after the Conquest." He adds a series of quotations illustrating the extent and popularity of the Anglo-Norman language even among the unlearned. These quotations show the importance and wide diffusion of the French language, a fact material to Vising's purpose which was to prove the right of Anglo-French to be considered as a special and independent branch of study in itself. These quotations bear upon the status of English, however, as intended to substantiate Vising's belief that French "became the common language of all practical intercourse." This statement certainly needs careful limitation. It is not possible to suppose that French became the general language of the "lower classes," small shopkeepers, artisans, and the like. Apparently Vising means that. But the familiar locutions in the quotations that a work in question is designed for *la laie gent*, for those *ki ne sunt gramaires*, for *li grant e li mendre* surely do not imply that. Indeed, Vising calls attention to *li mendre* as meaning the "lower orders," whereas its meaning is not absolute but loosely relative—greater and less. "It cannot be denied," Vising concludes, "that these statements furnish a very strong proof of the complete dominance of the Anglo-Norman language during the second half of the twelfth and most of the thirteenth century in nearly all conditions of life and of its penetration even into the lower strata of society." One cannot certainly accept the word "complete" or accept as proved the last clause that in the lower strata of society French was to any marked degree a *comun langage*. It should further be added that

Vising's remark on English literature during the first century after the Conquest "as scanty and of poor quality" needs modification. It is true so far as extant documents are concerned, but it must not be forgotten that English works not religious were far less likely to be preserved, and those religious only in one or two centers; further, that we may feel certain on evidence that there was a continuous oral popular literature, and that many men of British blood and birth did write, but in Latin, aiding in establishing the proud record which England holds at this period, as later, in the writing of history. Moreover, with all due deference, one may venture to predict that if Anglo-Norman works of the 12th century were more accurately distributed as to date, it would be found that Vising's comparison would largely fail of its force so far as regards the period he refers to, namely the 13th century.

The question as a whole is too large, too complex, too difficult, to be argued here at length. In passing from the 11th to the 12th century, we must suppose that more and more persons primarily English-speaking would learn to understand and speak some French, especially of course, if given schooling. Whether more persons primarily French-speaking through necessity or convenience would also acquire some understanding of English, one cannot say. To suppose, as Einkenel did, that use was made of a *Mischsprache*, is certainly permissible; that is, there was some use of an individual or local jargon of scraps, words and phrases from both languages but one cannot assume the existence of such a jargon as an individual entity, or regard it as of any importance except perhaps as aiding somewhat the transmission of words from either language to the other. The fact of real importance is that there were a large number of persons, in all walks of life who were bilingual. To state this in terms leading to our present purpose, one assumes that there were a number of persons whose primary language was French, who would naturally and preferably write in French as a vernacular but who could understand or even speak and write English. Likewise, there would be persons whose primary language was English, who would understand French but who would not naturally or preferably essay literary composition in French. English scholars who have written on

this subject—Bradley, Emerson, and others—and who assume that many persons were bilingual, would no doubt agree that in the case of educated persons, the term “bilingual” implies this. In this sense Marie was bilingual, and Layamon. Orm was perhaps bilingual if he used both Latin and French, prescribed or customary, in intercourse with his brother canons, and also those clerics who on occasion used one or the other language in preaching or at meetings in addition to their mother tongue. If so, we would next assume that Nicholas was in this sense bilingual. That the poet knew French is proved by his use of Marie, and (while the number of French words included in his English has only a remote and dubious bearing on the matter) by his punning use of the rare and presumably non-English word *foliot*. But either because of inability or some special reason, he did not write his poem in Latin or French, but in English.

How in the first place does this bear upon the poet's identification with Nicholas, the justice? We would reasonably suppose that the justice would have an adequate speaking knowledge of French—we may also conjecture that a knowledge of English would be highly desirable considering the varied nature of the cases coming before the circuit court. That interpreters were used on occasion we know, but a really competent knowledge of English upon the part of one at least of the justices of a circuit would certainly be extremely helpful, if not indispensable. If the justice were sitting *in banc*, direct appraisement of a witness's testimony would be rendered possible, and special cases in which both parties were English-speaking might, one may conjecture, be referred to a justice specially competent in English.

The question of the possibility of an itinerant justice preferring or being under necessity to write in English is one quite different in character from the question of the poet's use of English in a poem that is a plea for preferment, though the answer to the latter, it will be seen, has a bearing upon the former. In this case, we are not dealing with a probability; we are dealing with a fact. However little this fact squares with speculative notions as to the social relations of the French-speaking and English-speaking elements of the population, this solid fact remains that the author of a poem asking and hoping for recognition from a

person or persons in authority, able to confer desirable positions, did write in English—nor, we may interject, does it make any demonstrable difference whether the poem be accepted as dating approximately 1182, or twenty or thirty years later. Unless the poet was an unpractical optimist, and not the shrewd and clever, clear-sighted and practical person the poem clearly reveals, the only possible inference is that there were persons in authority capable of reading it, enjoying it, and being affected favorably towards the interest of the author. This inference does not need explanation or support—one does not need to adduce the English fables under Alfred's name and by Marie or argue that Layamon, lovingly regarding the books he had gathered and writing his great poem no doubt for the joy of it, did not also believe that there would be readers and hearers for it and they not the "lower orders" alone (not to speak of the copies of it for which the later rescension stands witness). Nor need one adduce the instinctive or conscious artistry of extant English lyric verse, religious and secular of the first half of the 13th century. This inference needs no support. The fact and inference are not subject to critical doubt or depreciation—emphatically the reverse. They stand as invaluable evidence to direct the historian's conclusions and they cannot be set aside as contradicting them.

We come now to a difficult question—one in part independent of possible controversial matters, but also necessarily in part inter-complicated with the views set forth as to the date and author of the poem—namely, whom did the author have in mind to address, to whom was his plea directed? Was it to one person, to several separately, or did he trust its duplication and diffusion to cause it to reach someone who might, because of it, desire to aid him? The last possibility may have been at the back of his mind, the second more probable, the first is really the most likely. Whether the original copy bore a formal dedication and submission, separate from the poem itself, we do not and cannot know. It is perfectly possible—and also probable—that a direct appeal to the desired patron as an integral part of the poem was purposely omitted in order that, failing of success, the poem might be re-directed to some other. What was safely secured within the poem was the name and address of the petitioner. From the standpoint

of probability, one may feel reasonably certain that the poet wrote with a particular person as objective, but with intent to use it also elsewhere if unsuccessful.

One may venture a further point. The poem, though it ask for clerical advancement, is not designed to have specific appeal to ecclesiastic dignitaries as such. It is sound, it affronts no prejudices except those of narrowly ascetic views, but it is plainly intended to include in its appeal persons of broad-minded, cultivated tone, interested in daily affairs. It is assuredly contemporary in its references, in its use of special topics, religious, literary, social, to catch and enforce attention and approval. One clan of "riche" men from whom Nicholas might have most directly received aid, is certainly not courted; the references to bishops are assuredly not ingratiating, indeed they are uncomplimentary. It would seem as if Nicholas really looked for preferment from persons outside the church, rather than within it—from the king or great nobles having livings within their gift. If a living or livings were secured, he takes care to affirm that he would then certainly approve himself to bishops fortunate enough to have him within call.

This leads directly to the conjecture, to which internal evidence lends support, that the poem was designed in the first place as an appeal to the king. That is, leaving here abstract discussion of the question, and linking the answer we give to it to the conclusions reached above as to the date and identity of the author, we would assume that the poet was hoping for aid from Henry II. If we so assume, the design of the poem, its form, fabric, special themes, incidental allusions, these together with the professional employment of the author as conjectured, fall into place to form a consistent and understandable whole. Henry's love of learning and literature, his genius for government, his judicial reforms that through process of law, made his personal presence felt in every part of his realm to ensure order and justice,⁶³ find in it direct reference. It includes allusions to contemporary

⁶³ Joannes Saresbiriensis, *Metalogicus*, 84—John of Salisbury designates him, "Illustris rex Anglorum Henricus, leo justitiae, rebus excessit humanis." It must not be forgotten that this comment came from a man who was Becket's intimate friend and in spite of the rumor that Henry had had Becket murdered.

events, and current churchly, literary, and social themes of instant interest. It uses literary material that was having a courtly vogue in a mode essentially learned, as yet unfamiliar and most piquant when employed in the vernacular, a mode naturally adapted and by the poet's skill specially enhanced to appeal to the legal-minded Henry. And it is surely unnecessary to add that the humor and grace and charm of the poem, blending also in such perfect balance lightness and seriousness, must have proved as irresistible then as it is irresistible today.

This summary statement needs enlargement in particulars whether as regards points of detail or to forestall possible criticism. It is not necessary to remind ourselves that Henry came truly by his love of learning and literature, and his liberal patronage of letters, grandson as he was of Henry Beaucherc, lineal descendant of that Fulk the Good who had told King Lothair that *Rex illiteratus* was *asinus coronatus*. Or that he was accounted the best-educated monarch of his time, and found time every day in his nervous busy life, according to Peter of Blois, to keep school and converse with scholars. Or that numbers of works, of course, by his permission (in some cases because written by request) are dedicated to him—works by Ailred Rievaulx, Wace, Robert of Torigny, Jordan Fantosme, Giraldus, Henry of Huntingdon, Gervase of Tilbury, Benoit, the precious *de Scaccario* of Richard, his Treasurer, the *Tractatus de Legibus*, ascribed to Glanville. Of these, of the innumerable eulogies to his virtues, one meets in contemporary literature, and of the substantial merit that lies behind them, one may read in history, but more particularly in Stubbs and Haskins.⁶⁴ The essential point is that because of the formidable character of this list in its massing of solid learning, there is sometimes the disposition to believe that Henry's interest was exclusively scholarly and practical while Eleanor took care of the poets. Holzschnecht refers to this. Henry was in fact, within measure, catholic in his literary interests. If we are unwilling to take at par Osbert de Clare's tribute to him as the *Mæcenas* of his age, or to believe that his patronage of Wace or Robert

⁶⁴ Stubbs, W., *Learning and Literature at the Court of Henry II*; Haskins, Charles Homer, *Henry II as a Patron of Literature* in *Essays in Medieval History*, presented to Thomas Frederick Tout.

of Cricklade's *Defloratio Plinii*, or Adelard's *Astrolabe*, show susceptibility to lighter forms of literature, is it not enough to cite the incomparable Marie in the prologue to her *Lais* (vv. 43 ff.)?⁶⁵

En l'onur de vus, nobles Reis,
 ki tant estes pruz e curteis
 a qui tute joie s'encline,
 e en qui quer tuz biens racine,
 m'entremis des lais assembler
 par rime faire e reconter.
 En mun quer pensoe e diseie,
 sire, ques vos presentereie.
 Se vos les plaist a receveir,
 mult me ferez grant joie avoir,
 a tuz jurs mais en serrai liee
 Ne me tenez a surquidiee,
 se vos os faire ices present.
 Ore oëz le comencement

Who may doubt the king hearkened? Or is there anyone who might more justly make like appeal than Marie's fellow-fabulist?

There is one passage in the poem that is believed to pay tribute to Henry's catholic interest in literature—the tale of the murdered nightingale and how she was avenged by good King Henry. Since then, says the nightingale of the poem, "I may sing where I will" (vv. 1109 ff.):

Nu ich mai singe war ich wulle
 ne dar me neuer eft mon agrulle.

So far as extant versions permit judgment it was the *Owl* poet who connected this story with Henry. Is it, by the way, more likely that the poet would do this of a Henry dead ten years or less or more, or of a living Henry? How one would like to know whether possibly there is an historical allusion here—whether some severe moralist like the owl had found fault with the new love verse from the South. Hall believes the story actually refers to some "minstrel go-between saved by the intervention of King Henry II from the vengeance of a wronged husband."⁶⁶

⁶⁵ Warnke, K., ed., *Die Lais der Marie de France*.

⁶⁶ Hall, J., *Op. Cit.*, II, 566.

Such daring conjecture is quite baseless—and demonstrably improbable in view of the manner in which the poet adapts the fable and fabulous story to his own purposes throughout the poem, as shown above.

No more need be said as regards the peculiar fitness of the poem to appeal to Henry, the lawyer and business man—its chosen form, a debate, the conduct of the debate as a pleading with careful observance of legal niceties as shown above—and also the emphasis laid in the praise of Nicholas upon those very qualities that would appeal to the king. But yet again stress must be laid upon the direct reference which this servant of the king, his justice, as we assume, whose duty it is to deliver wise judgments and to enforce his law, makes to a *living* king and that which he had most at heart (vv. 1730 ff.):

Hwat! wulle ȝe þis pes tobreke,
 an do þanne [kinge] swuch schame?
 ȝe[t] nis he nouȝer ded ne lame.
 Hunke schal itide harm & schonde
 ȝef ȝe doþ griþbruche on his londe.

Surely no compliment could be more acceptable because so natural, so unstudied, so free from sophistic rhetoric. And again we must recall what has been shown above that the words “þis pes” and the affirmation that the king’s justice is sure and swift through his personal effort in no wise fits a Richard or a John or a Henry III, but has point and meaning as said of Henry II.

Further, the themes the poet treats, as on the one hand they are safe, avoiding possible offence, as they befit one who is at once cleric, a responsible judicial officer, and a man of the world, as they are themes that are of interest to the poet, so also they are of a nature to be of interest to the king and the courtly circle. The poet argues allegorically the opposition between the two kinds of song, balancing their claims and merits in point of artistry and ethics, the degree of license to be given to light and worldly themes, the opposed philosophies of life, as between gayety and gravity. Then he introduces a reference to the cataclysm in Norway signalized by the presence of the great Archbishop, a subject of the greatest current interest and one involving a

political problem, but which he does not touch in its political aspects. Next he pays his compliment to the king's justice, and then finally argues at some length on love and marriage, touching on and dismissing the courtly doctrine,⁶⁷ upholding the more humane judgment as to woman's natural weakness, a subject then brought especially to the fore by the impassioned controversy over the admission of fallen women to conventual discipline, and expressing a like tolerant view, pleading for special judgment in the individual case, of infidelity to the marriage vow.

What objections suggest themselves to this conjecture that the king's favor was the primary object of the poem? At once the fact that the poem was written in English recurs. We might have recourse here to the famous remark of Walter Map that Henry knew all languages from the Bay of Biscay to the Jordan River, but unfortunately one distrusts the hyperbolic enthusiasm of medieval eulogy. We must content ourselves with supposing that Henry did know English well enough to read and enjoy the poem. We may indeed, venture the supposition that the poet may have even thought that the fact that it was written in English might recommend it to the attention and curious interest of the king.

One other possible objection suggests itself. Supposing Henry to be the poet's objective, may it be argued that in that case the poet would not have ventured to speak on love and marriage as he did, bethinking himself that Henry might take to himself the strictures on illicit connections, or the reprehension of the husband who locks up his wife from the world? To this objection, which might possibly be raised the answer is that the thought could not possibly occur either to the poet or to the king. Kings are not in this regard like other men. Henry's amours, not to speak of the lovely Rosamund Clifford, dead now for some years and buried in the choir at Godestow who was his acknowledged mistress, the disreputable episode of his passion for his son's be-

⁶⁷ That he would treat of it controversially would have involved too much, even though he knew of it in a book as codified by Andreas, which recent evidence dating Andreas between 1174-1186 (Steiner, A., *Speculum*, IV, 92) would make possible.

trothed, Aelis, the imprisonment of Eleanor for which there was political reason, do not come into the picture. These matters are quite apart from marriage as a religious and social fact for men in general. Indeed, the poet as reprehending seduction and marital infidelity through the nightingale, and merely asking for fair judgment for wives tried too far through the owl, was really fully in accord with the king, who in respect to his subjects, is reputed to have set his face against infidelity, and to have been severe in his judgment of offenses against chastity, frequently punishing offenders with mutilation.

One point remains. What of Nicholas' success? Did his poem reach the king, was it read, was it read favorably, did he receive his preferment? Of this we know nothing, and may perhaps never know. One thing only we know, that his poem was known, was valued, was copied, was imitated. And we know that the king's justice, Nicholas, disappears from the records at just the time that other evidence fixes as the date of the composition of the poem. We may perhaps hope that he did receive his desired preferment, obeyed the Pope's ordinance that those holding benefices should not hold civil office, retired to a comfortable living and gave aid to his bishop through his wisdom and judicial experience. It may be that some yet undiscovered record may show Nicholas, the son of Thorwald, in such desired retirement.

V

CONCLUSIONS

And now there remains only to review the results of the foregoing study of the sources, date, and authorship of the *Owl and the Nightingale*.

1. Since it has been found that linguistic and paleographic evidence cannot accurately date the composition of the poem, one must look elsewhere for more conclusive evidence which is to be found in the historical allusions in the poem.

2. In an effort to refute Atkins' view that the poem reflects the culture of the beginning of the 13th century, it has been shown that each feature of the poem in its manifold aspects reflects equally well the culture of the 12th century as regards the literary interests of the time, the delight in fables, natural history, and allegory, the fondness for debates and proverbs—with the suggestion that, since the proverbs mentioned as being Alfred's with the exception of two do not appear in any extant collection of Alfred's proverbs, those which appear at the conclusion of the fables of Alfred were the ones referred to—the close connection between law and literature—all these, as well as the growing interest in the new love poetry of France, have their place in the poem. Further, nearly every feature has its analogue in fable and too much stress cannot be laid upon the fact that the poet in most instances had recourse to books rather than to nature for those phases of natural history from which emanate the freshness and charm of the poem.

3. Although all previous commentators except Hinckley have dated the poem after the death of Henry II because of the mistaken interpretation of the verses

the king Henri,
Jesus his soule do merci!

it has been shown by examples of current expressions of similar character that the above verses do not indicate a dead king, and since it is generally conceded that the Henry referred to is Henry

II, this fact coupled with the allusion to the famous peace of Henry II in verses 1730 ff. place the composition of the poem within the reign of Henry II. That Hinckley's date based upon a supposed allusion to the mission of Vivian 1176-78 wherein Vivian contended that Galloway was a part of Norway and only changed his mind when Peter of St. Agatha arrived with his commission omitting Norway and including Galloway, has been found to be without foundation, is shown and a new candidate for the "god man from Rome" (vv. 1015-16) is found in the person of Nicholas Breakspear, who organized the Norwegian church; the people in an irreclaimably savage state are the Birkbeiner, the followers of Swerre, *presbyter*, who dethroned Magnus and sent Eystein, the great archbishop and king-maker, on an inglorious exile into England (1180-83). The importance of the event, duly noted in the chronicles of the time, and recognized by the king and justiciar in the granting of liberal corrodies and of permission to the archbishop to ship duty-free a boat-load of wheat to Norway each year, is recorded by the poet of the *Owl* in some thirty-two verses which he devotes to the description of Norway. The allusion to "*his þes*," which must have been some notable peace to warrant the use of the demonstrative, is that of Henry II—it has been demonstrated that the expression could not appropriately apply to any other king—a peace that came about in consequence of a series of enactments beginning with the inquest of sheriffs (1170) and the Assize of Northampton (1176) and culminating in the reorganization of the Curia Regis (1178), and of the courts (1179), and, finally, the Assize of Arms (1181), and which with Henry's strict supervision of the working of these reforms resulted in a veritable king's peace; the long description of the savage Norse (really the Birkbeiner), prompted by Eystein's fulminations against Swerre while in England—all this evidence together with the fact that all other allusions—the possible allusion to the Assize of Arms (vv. 1369 ff.), to the interdicts and excommunications during the latter years of Henry II's reign (vv. 1312 ff.), to conventual scandals leading to a discussion of woman in general in relation to love and marriage—give support to and confirm a date *ca.* 1182-3 as that of the composition of the poem.

4. The proposed author's activities as one of the traveling justices (*judices errantes*), of clerical standing, dropped from the *Rolls* as the result of papal decree, not only conform with but give support to this date. The Nicholas, filius Thoraldi, who appears in the records of Henry II as an itinerant justice, connected with the locality of Dorset, in the discharge of his judicial duties, very probably a man of education and maturity, of clerical standing, also seeming to have suffered neglect—when one considers the favors enjoyed by his colleagues—all these facts coincide with the situation of Nicholas of Guildford as they are presented to us in the *Owl*. Therefore, from this study I am convinced that Nicholas of Guildford and Nicholaus filius Thoraldi are identical and that this candidate for the authorship of the *Owl* whose name disappears from the *rolls* shortly after 1182 has more to recommend him than any other whose claims have been heretofore presented.

BIBLIOGRAPHY

- Abelard, Peter, *Oeuvres inédites d'Abélard, Sic et Non*, ed. V. Cousin Paris, 1836.
- Alanus de Insulis, *De Planctu Naturae*, transl. Douglas M. Moffat (Yale Studies), New York, 1908.
- Sancti Aldhelmi, *Opera quae extant*, ed. J. A. Giles, Oxford, 1894.
- Allen, Philip Schuyler, *The Romanesque Lyric*, Chapel Hill, Univ. of North Carolina, 1928.
- Andreas Capellanus, *De Amore*, ed. E. Trojel, Havniae, 1892.
- Ancren Riwle, ed. James Morton for the Camden Society, 1853.
- Anglade, J., *Les troubadours*, Paris, 1908 (new ed. 1919).
- Anglo-Saxon Chronicle, ed. Edward B. Thorpe, R. S., London, 1861.
- Annales de Waverleia in *Annales Monastici*, ed. Henry R. Luard, R. S., London, 1865.
- Annals of the Kingdom of Ireland by the Four Masters*, ed. John O'Donovan, Dublin, 1856.
- Archiv für das Studium der neueren Sprachen*, CXIX, 256, 1907.
- Atkins, J. W. H., Further Notes on *The Owl and the Nightingale*, *Aberystwyth Studies*, IV, 1922.
- Baker, E. A., *Gesta Romanorum*, New York, 1905.
- Bartholomaeus Anglicus (erroneously de Glanville) *De Proprietatibus rerum*, Strasbourg, 1485.
- Batiouchkof, Th., *Le débat de l'ame et du corps*, Romania XX, 1891.
- Benedictus Abbas, *Gesta Regis Henrici Secundi*, ed. William Stubbs, R. S., II, London, 1867.
- Benfey, Theodor, *Pañchatantra*, Leipzig, 1859.
- Birch, Walter de Gray, *Domesday Book*, London, 1887.
- Bigelow, M. M., *Placita Anglo-Normannica*, Boston, 1879.
- Björkman, Erik, *Archiv für das Studium der neuern Sprachen*, CXXVI, 236, 1911.
- Bond, Francis, *Introduction to English Architecture*, II, London, 1913.
- Börsch, Joseph, *Über Metrik und Poetik der altenglischen Dichtung . . . O. and N.*, Münster, Diss., 1883.
- Bracton, Henry de, *De Legibus et Consuetudinibus Angliae*, ed. Sir Travers Twiss, R. S., I-VI, London, 1878.
- Breier, W., *Eule und Nachtigall*, *Studien zur englischen Philologie*, Halle, 1910.
- Breier, W., *Englische Studien*, XLII, 408, 1910.
- Brett, Cyril, *Notes on Passages in Old and Middle English*, *Modern Language Notes*, XIV, 1919.
- Brett, Cyril, *Notes on Old and Middle English*, *Modern Language Notes*, XXII, 1927.

- Brink, Bernhard ten, *Die Geschichte der englischen Litteratur*, I, herausgegeben von Alois Brandl, Strassburg, 1899.
- Brinkmann, Hennig, *Die Geschichte der lateinischen Liebesdichtung im Mittelalter*, Halle, 1925.
- Britton, Joannes, *On the Laws of England*, transl. Francis Morgan Nichols, I, Oxford, 1865.
- Brögger, A. W., *Ancient Immigrants* (A History of the Norse Settlements in Scotland), Oxford, 1929.
- Brown, Carleton, *Lyrics of the Fourteenth Century*, Oxford, 1924.
- Caesarii Heisterbacensis Monachi, *Dialogus Miraculorum*, ed. Josephus Strange Coloniae, 1851.
- Cambridge History of English Literature*, ed. Ward and Waller, II, 1907.
- Die Cambridger Lieder*, ed. Karl Strecker, Berlin, 1926.
- The Canterbury Benedictional*, ed. Reginald Maxwell Woolley, Henry Bradshaw Soc., LI, London, 1917.
- Capgrave, Johannes, *De Illustribus Henricis*, ed. Francis C. Hingeston, London, 1858.
- Carmina Burana*, ed. Wilhelm Meyer, Heidelberg, 1930.
- Carmina Burana*, ed. J. A. Schmeller, Breslau, 1894.
- Carr, Capt. M. W., *A Collection of Telugu Proverbs Together with Sanscrit Proverbs*, London, 1868.
- Chambers and Sidgwick, *Early English Lyrics*, London, 1907.
- Chardry's *Petit Plet*, ed. John Koch, Heilbronn, 1879.
- Chaytor, Henry John, *Troubadours and England*, Cambridge University, Pr., 1923.
- Collingswood, W. G., *Scandinavian Britain*, London, 1908.
- Coulton, G. G., *Social Life in Britain from the Conquest to the Reformation*, Cambridge, 1918.
- Coulton, G. G., *Modern Language Review*, XVIII, 342-3, 1923.
- Coulton, G. G., *Modern Language Review*, XVII, 69-71, 1922.
- Coulton, G. G., *A Medieval Garner*, London, 1910.
- Courthope, W. J., *A History of English Poetry*, I, New York, 1895.
- Dale, Edmund, *National Life and Character in the Mirror of Early English Literature*, Cambridge, 1907.
- Adam Davy's Dream About Edward II*, ed. F. J. Furnivall, E. E. T. S., London, 1878.
- De Pace Regis et Regni*, London, 1610.
- Deslongchamps, A. Loiseleur, *Essai sur les fables indiennes*, Paris, 1838.
- Dialogus virginis Marie sive soliloquium*, ed. Anton Schonbach, *Zeitschrift für deutsches Alterthum*, XVII, 1874.
- Dickens, Bruce, *T. L. S.*, April 7, 1927, 250-1.

- Dictionary of National Biography* for accounts of Giraldus Cambrensis, John of Salisbury, Walter Map, Alexander Neckam, Nicholas of Guildford, Odo of Cheriton, Nigel Wirecker.
- The Digby Mysteries*, ed. F. J. Furnivall, for the New Shakespeare Soc., 1882.
- The Dispute between the Violet and the Rose*, ed. L. Herrig, *Archiv* XC, 152 ff.
- Dodd, Wm. George, *Courtly Love in Chaucer and Gower*, Boston, 1913.
- Dugdale, Sir William, *Monasticon Anglicanum*, I-V, London, 1849.
- Du Méril, Edelstand, *Poésies inédites du moyen âge*, Paris, 1854.
- Du Méril, Edelstand, *Poésies populaires latines antérieures au douzième siècle*, Paris, 1843.
- Durkett, Eleanor S., *Latin Writers of the Fifth Century*, New York, 1931.
- Ebert, Adolph, *Allgemeine Geschichte der Literatur des Mittelalters*, Leipzig, 1889.
- Ebisch, Walter, *Zur Syntax des Verbs im altenglischen Gedicht Eule und Nachtigall*, Leipzig, 1905.
- Eckenstein, Lina, *Woman Under Monasticism*, Cambridge University Pr., 1896.
- Sir Eglamour*, ed. Gustav Schleich, Palaestra LIII, Berlin, 1906.
- The Elder Edda*, transl. Olive Bray, London, 1908.
- Ellis, Henry, *General Introduction to the Domesday Book*, II, London, 1833.
- Evans, E. P., *Animal Symbolism in Ecclesiastical Architecture*, London, 1896.
- Faral, E., *Les débats du clerc et du chevalier, Romania*, XLI, 473 ff.
- Fitz-Nigel, Richard, *Dialogus de Scaccario*, ed. Hughes, Crump, Johnson, Oxford, 1902.
- Fitz-Stephen, William, *Life of Becket*, ed. J. C. Robertson, R. S., III, 1877.
- Flores Historiarum*, ed. Henry R. Luard, R. S., London, 1890.
- Folk-Lore*, March, 1890, June, 1890.
- Förster, Max, *Kleine Mittelenglische Texte, Anglia*, XLII, 1918-1919.
- Freeman, Edward A., *The History of the Norman Conquest of England*, Oxford, 1876.
- Freeman, Edward A., *The Growth of the English Constitution from the Earliest Times*, London, 1872.
- Gaselee, Stephen, *The Oxford Book of Medieval Latin Verse*, Oxford, 1928.
- Gibbings, W. W., *Folklore and Legends*, London, 1890.
- Giraldus Cambrensis, *De Principiis Instructione*, ed. George F. Warner, R. S., London, 1891.
- Giraldus Cambrensis, *De Rebus a se Gestis*, ed. J. S. Brewer, R. S., London, 1861.
- Giraldus Cambrensis, *Expugnatio Hibernica*, ed. James F. Dimock, R. S., London, 1867.
- Giraldus Cambrensis, *Gemma Ecclesiastica*, ed. J. S. Brewer, R. S., London, 1862.
- Giraldus Cambrensis, *Topographia Hibernica*, ed. James F. Dimock, R. S., London, 1867.

- Gjerset, Knut, *History of the Norwegian People*, Macmillan, 1921.
- Glanvil, Ranulf, *Tractatus de Legibus* (printed in *Select Charters* ed. William Stubbs), Oxford, 1884.
- Gould, Sabine Baring, *Curious Myths of the Middle Ages*, London, 1866.
- Graesse, Dr. J. G. Th., *Die beiden ältesten lateinischen Fabelbücher des Mittelalters*, Tübingen, 1880.
- Gregg, W. W., *On Editing Early English Texts*, *Modern Language Review*, XVIII, 1923.
- Gröber, Gustav, *Grundriss der Romanischen Philologie*, II, Strassburg, Gubernatis, Angelo de, *Zoological Mythology*, II, London, 1872.
- Hall, Joseph, *Selections from Early Middle English 1130-1250*, II, Oxford, 1920.
- Hallam, Henry, *A View of the State of Europe During the Middle Ages*, III, New York, 1853.
- Hammond, Eleanor P., *The Heart and the Eye*, *Anglia* XXXIV, 1911.
- Hanford, James Holly, *Classical Eclogue and Medieval Debate*, *Romanic Review*, II, 1911.
- Hanford, James Holly, *The Medieval Debate Between Wine and Water*, *P. M. L. A.*, XXVIII, 1913.
- Hanford, James Holly, *The Progenitors of Goliath*, *Speculum* I, 1926.
- Hanford, James Holly, *Modern Language Notes*, XXVI, 161-3, 1911.
- Harry, Ph., *A Comparative Study of the Aesopic Fable in Nichole Bozon*, University of Cincinnati, 1905.
- Haskins, Charles Homer, *Henry II as a Patron of Literature* in *Essays on Medieval History* presented to Thomas Frederick Tout, Manchester, 1925.
- Haskins, Charles Homer, *The Renaissance of the 12th Century*, Harvard Univ. Pr., 1927.
- Hazlitt, W. C., *Remains of Early English Popular Poetry*, III, London, 1866.
- Hensel, Werner, *Die Vögel in der provenzalischen und nordfranzösischen Lyrik des Mittelalters*, *Romanischen Forschungen*, XXVI, 1909.
- Hervieux, Léopold, *Les fabulistes latins*, I-IV, Paris, 1894.
- Hinckley, Henry Barrett, *The Date, Authorship, and Sources of The Owl and the Nightingale*, *P.M.L.A.*, XLIV, 1929.
- Hinckley, Henry Barrett, *The Date of the Owl and the Nightingale*, *Modern Philology*, XVII, 1919.
- Histoire littéraire de la France*, XVI-XXIV, 1872.
- Early Mysteries and Other Poems of the 12th and 13th Centuries*, ed. Thomas Wright, London, 1838.
- Hirzel, Rudolf, *Der Dialog*, Leipzig, 1895.
- Henrici Huntendunsis, *Historia Anglorum*, ed. Thomas Arnold, R. S., London, 1879.
- Holdsworth, W. S., *A History of English Law*, I, II, London, 1903.

- Holthausen, F., *Beiblatt zur Anglia*, XXX, 242.
The Holyrood Ordinale, ed. Francis Eeles, Edinburgh, 1916.
 Holznecht, K. J., *Literary Patronage in the Middle Ages*, Univ. of Pennsylvania Diss., 1923.
 Horn, Wilhelm, *Beiblatt zur Anglia*, XXXVI, 163-7, 1925.
 Hubatsch, Oskar, *Die lateinischen Vagantenlieder des Mittelalters*, Görlitz, 1870.
 Hugo, St. Victor, *De Bestiis et aliis rebus*, Migne, *Patrologiae Cursus Completus*, CLXXVII, 1854.
 Hume, David, *History of England*, I-II, Boston, 1854.
 Inderwick, F. A., *The King's Peace*, London, 1895.
 Ingulph's *Chronicle of the Abbey of Croyland* with Continuations by Peter of Blois and Anonymous Writers, ed. and transl. H. T. Riley, London, 1854.
 Isidori, *Etymologiarum Libri XX*, ed. W. M. Lindsay, Oxford, 1911.
Sir Ysumbras, ed. Gustav Schleich, *Palaestra* XV, Berlin, 1901.
 Jacobs, Joseph, *Fables of Aesop*, first printed by Caxton 1484, II, London, 1889.
 Jacobs, Joseph, *Fables of Bidpai*, London, 1888.
 Jarcho, von Boris I, *Die Vorläufer des Goliath*, *Speculum* III, 1928.
 Jeanroy, A., *Les origines de la poésie lyrique en France au moyen âge*, Paris, 1925.
 Jeudwine, J. W., *Tort, Crime and Police in Medieval Britain*, London, 1917.
 Ioannes Saresberiensis, *Metalogicus*, Paris, 1610.
 Joannis Saresberiensis, *Polycraticus*, Libri I-VIII, ed. J. A. Giles, Oxford, 1848.
 Jocelini de Brakelonda, *Chronica, De Rebus Gestis Samsonis*, Camden Soc., 1890.
 Johannis de Altaville, *Architrenius*, in *Anglo-Latin Satirical Poets and Epigrammatists of the 12th Century*, ed. Thos. Wright, R. S., London, 1872.
 Jones, H. S. V., *Journal of English and Germanic Philology*, XXIV, 452, 1925.
 Jusserand, J. J., *Histoire littéraire du peuple anglais*, I, Paris, 1896.
 Keary, C. F., *The Vikings in Western Christendom*, London, 1891.
 Kenyon, John S., *Modern Philology*, XVIII, 55-6, 1920-21.
 Kenyon, John S., *Journal of English and Germanic Philology*, XII, 572, 1913.
 Ker, W. P., *English Literature Medieval*, Home University Library.
 Ker, W. P., *Essays on Medieval Literature*, London, 1905.
 Ker, W. P., *The Dark Ages*, New York, 1904.
 Knobloch, H., *Die Streitgedichte im provenz. u. altfranz.*, Diss. Breslau, 1886.
 Knowlton, E. C., *Nature in Middle English*, *J. E. G. P.*, XX, 207.
 Koch, John, *Anglia Beiblatt*, XXI, 230-1.
 Koht, Halvdan, *Scandinavian Kingdoms Until the End of the 13th Century*, *Cambridge Medieval History*, VI, 380, 1929.
 Körting, Gustav, *Grundriss der Geschichte der engl. Litteratur*, 1899.

- Lang, L., *Modern Language Notes*, XXIII, 126, 1908.
- Lauchert, F., *Über das engl. Marienlied in 13 Jahrh.*, *Englische Studien*, XVI.
- Lawrie, Sir Archibald Campbell, *Annals of the Reigns of Malcolm and William, Kings of Scotland*, Glasgow, 1910.
- Leach, Henry Goddard, *Angevin Britain and Scandinavia*, Harvard Univ. Pr., Cambridge, 1921.
- Legouis, E. and Cazamian, L., *Histoire de la littérature anglaise*, Paris, 1924.
- Lehmann, Paul, *Die Parodie im Mittelalter*, München, 1922.
- Leyen, Dr. Friedrich von der, *Märchen und Spielmannsdichtung*, *Germanisch-Romanische Monatschrift*, X, 1922.
- Literaturblatt für germanische und romanische Philologie*, ed. Otto Behaghel und Kurt Glaser, I-L, Leipzig.
- Lokman, *Fables of Lokman*, ed. A. Cherbonneau, Paris, 1864.
- Ludus Coventriae or the Plaie called Corpus Christi*, ed. K. S. Block for E. E. T. S., London, 1922.
- MacGillivray, Wm., *A History of British Birds*, III, London, 1840.
- Maitland, Frederick William, *The Constitutional History of England*, Cambridge, 1909.
- Mall, E., *Zur Geschichte der mittelalterlichen Fabellitteratur und insbesondere des Esope der Marie de France*, *Zeitschrift für Romanischen Philologie*, IX, 161-203.
- Manitius, M., *Geschichte der lat. Literatur des Mittelalters*, II, München, 1923.
- Manly, J. M., *Familiae Goliae*, *Modern Philology* V, 1907-08.
- Mann, M. J., *Bestiary of Philip von Thaün und seine Quellen*, *Anglia* IX, 1886.
- Map, Walter, *De Nugis Curialium*, ed. Montague Rhodes James, Oxford, 1914.
- Map, Walter, *Latin Poems Attributed to Walter Map*, ed. Thos. Wright, London, 1841.
- Martin, Ernest Whitney, *The Birds of Latin Poets*, Leland Stanford Univ., 1914.
- Matthaei Parisiensis, *Chronica Majora*, ed. Henry R. Luard, R. S., London, 1874.
- Mätzner, E. A., *Altenglische Sprachproben*, I, Berlin, 1867.
- Mawer, A. and Stenton, F. M., *Survey of English Place Names*, Cambridge Pr., 1924.
- Merrill, Elizabeth, *The Dialogue in English Literature*, *Yale Studies in English Literature*, XLII, 1911.
- Meyer, P., *The Choice of a Husband*, *Romania* XIII, 512.
- Moore, Olin, *Vernacular Literature*, *Romanic Review*, IV, 1-26, 1913, also V, 45-54, 1914.
- Morris, William A., *The Early English County Court*, Columbia Univ. Publ., 1926.

- Morley, Henry, *English Writers*, III, London, 1888.
- Morsbach, L., *Mittelenglische Grammatik*, Halle, 1896.
- Mosher, J. A., *The Exemplum in the Early Religious and Didactic Literature of England*, New York, 1911.
- Nation-Athenaeum*, August 26, 1922, 715.
- Neckam, Alexander, *De Laudibus Divinae Sapientiae*, ed. Thos. Wright, R. S., London, 1863.
- Neckam, Alexander, *De Naturis Rerum*, ed. Thos. Wright, R. S., London, 1863.
- Neckam, Alexander, *Novus Aesopus*, ed. L. Hervieux in *Les fabulistes latins*, III, Paris, 1894.
- Neckam, Alexander, *Novus Avianus*, ed. L. Hervieux, in *Les fabulistes latins*, III, Paris, 1894.
- Neilson, W. A., *Romarcimontis Concilium*, Mod. Lang. Dept., Harvard Univ., 1899.
- Newman, Edward, *A Dictionary of British Birds*, London, 1866.
- Noack, Paul, *Eine Geschichte der relativen Pronomina in der englischen Sprache*, *Zeitschrift für deutsche Philologie*, XIV, 1882.
- Noelle, H., *Die Sprache des altenglischen Gedicht Eule und Nachtigall*, Leipzig, 1905.
- Notes and Queries*, 439, June 3, 1922.
- Ogle, Marbury Bladen, *Some Aspects of Medieval Latin Style*, *Speculum* I, 1926.
- O'Grady, Standish, *History of Ireland*, II, London, 1880.
- Oliphant, T. L. K., *The Old and the Middle English*, London, 1878.
- Oulment, Charles, *Les débats du clerc et du chevalier*, Paris, 1911.
- The Owl and the Nightingale*, ed. J. W. H. Atkins, Cambridge, 1922.
- Das Mittelenglische Streitgedicht, Eule und Nachtigall*, ed. W. Gadow, Berlin, Diss., 1907, *Palaestra* LXV, 1909.
- The Owl and the Nightingale*, ed. F. H. Stratmann, Krefeld, 1868.
- The Owl and the Nightingale*, ed. J. E. Wells, Boston, 1907.
- Palgrave, Sir Francis, *The Rise and Progress of the English Commonwealth*, London, 1832.
- Paris, Gaston, *L'Esquisse historique de la litt. franc. au moyen âge*, Paris, 1907.
- Petrus Alfonsi, *Disciplina Clericalis*, ed. C. Winter, Heidelberg, 1911.
- Pilpay, *The Fables of Pilpay*, London, 1797.
- Pliny's Natural History*, transl. Philemon Holland, London, 1600.
- Poetae latini minores*, ed. C. Wernsdorf, VI, Helmstadt, 1794.
- Pollock, Sir Frederick, *The King's Peace in the Middle Ages*, in *Select Essays in Anglo-American Legal History*, II, Boston, 1908.
- Pollock and Maitland, *History of English Law*, II, Cambridge Univ. Pr., 1895.

- Poole, Austin Lane, *Henry the Lion*, Oxford, 1912.
- Poole, R. L., *The Exchequer in the Twelfth Century*, Oxford, 1912.
- Proverbs of Alfred*, ed. Edv. Borgström, *Beiblatt zur Anglia*, XXI, 1910.
- Quaritch, Bro. Bernard, *A Short Sketch of Liturgical History and Literature* London, 1888.
- Raby, F. J. E., *A History of Christian-Latin Poetry*, Oxford, 1927.
- Radulfi de Diceto Decani Londoniensis, *Opera Historica*, ed. Wm. Stubbs, I, London, 1876.
- Ramsey, Sir James H., *The Angevin Empire*, London, 1903.
- Rand, E. K., Review, *Die Apokalypse des Goliath* (K. Strecker), *Speculum* III.
- Regesta regum Anglo-Normannorum 1066-1154*, ed. H. W. C. Davis, I, Oxford, 1913.
- Reinhard, J. R., *The Literary Background of the Chantefable*, *Speculum* I, 1926.
- Riese, A., *Anthologia latina*, II, Leipzig, 1869.
- Robert, A. C. M., *Fables inédites des 12^e, 13^e, 14^e siècles*, Paris, 1825.
- Roberti de Torrigneo, *Chronica*, ed. Richard Howlett, R. S., London, 1889.
- Rogeri de Hoveden, *Chronica*, ed. Wm. Stubbs, R. S., London, 1869.
- Roll of the Great Pipe, 26 Henry II*, XXIX, London, 1908.
- Roll of the Great Pipe, 27 Henry II*, XXX, London, 1909.
- Roll of the Great Pipe, 28 Henry II*, XXXI London, 1910.
- Roll of the Great Pipe, 29 Henry II*, XXXII, London, 1911.
- Saintsbury, George, *A Short History of English Literature*, New York, 1898.
- Salzman, L. F., *Henry II*, New York, 1914.
- Saxonis Grammatici, *Gesta Danorum*, herausgegeben von A. Holder, Strassburg, 1886.
- Schofield, William Henry, *English Literature from the Norman Conquest to Chaucer*, Macmillan, 1906.
- Selbach, Ludwig, *Das Streitgedicht in der altprovenzalischen Lyrik*, Marburg, 1886.
- Senecae, L. Annaei, *Opera*, ed. Fredericus Haase, III, Leipzig, 1853.
- Shelly, P. V. D., *English and French in England 1066-1100*, Univ. of Pennsylvania Diss., 1914.
- Sherman, L. A., *A Grammatical Analysis of the O.E. Poem The Owl and the Nightingale*, Transactions of the American Philological Ass'n, VI, 1875.
- Skeat, W. W., *Early English Proverbs*, Oxford, 1910.
- Skeat, W. W., *Etymological Dictionary of the English Language*, Oxford, 1910.
- Smith, R. Bosworth, *Bird Life and Bird-Lore*, London, 1909.
- Steiner, Arpad, *The Date of the Composition of Andreas Capellanus' De Amore*, *Speculum* IV, 1929.

- Stengel, E., *Desputeison de l'ame et du corps ein anglonormanisches Gedicht*, *Zeitschrift für Romanischen Philologie*, IV, 1880.
- The Stowe Missal*, ed. Sir George F. Warren, Bradshaw Society, XXXII.
- Stratmann, F. H., *Middle English Dictionary*, Oxford, 1891.
- Stubbs, William, *The Early Plantagenets*, London, 1876.
- Stubbs, William, *Learning and Literature at the Court of Henry II (Seventeen Lectures on the Study of Medieval and Modern History)*, Oxford, 1884.
- Stubbs, William, *Lectures in Early English History*, ed. A. Hassall, London, 1906.
- Stubbs, William, *Select Charters, Illustrative of English Constitutional History*, Oxford, 1884.
- Stubbs, William, *The Constitutional History of England*, I, Oxford, 1874.
- Sturlason, Snorre, *The Heimskringla*, transl. Samuel Laing, Everyman's Library.
- Süssmilch, H., *Die lateinische Vagantenpoesie*, Leipzig, 1917.
- Swainson, C., *Prov. Names and Folk-Lore of British Birds*, English Dial. Soc., XVIII.
- Symonds, John Addington, *Wine, Women, and Song*, transl. Medieval Latin Students' Songs, London, 1895.
- Taylor, Henry Osborn, *The Classical Heritage of the Middle Ages*, New York, 1901.
- Taylor, Henry Osborn, *The Medieval Mind*, II, London, 1925.
- Thompson, J. W., *The Origin of the Word Goliardi*, *Studies in Philology* XX, 1923.
- Thomson, S. Harrison, *Three Unprinted Opuscula of John Wyclif*, *Speculum* III, 1928.
- Tilbury, Gervase, *Excerpta ex Otis Imperialibus*, ed. Jos. Stevenson, R. S., London, 1875.
- Toulmin-Smith, L. et. Meyer, Paul, *Les contes moralisés de Nichole Bozon*, (Soc. des Anc. Textes françaises), Paris, 1889.
- The Towneley Plays*, ed. Alfred W. Pollard, E.E.T.S., London, 1897.
- Trevisa, John, transl. *Polychronicon Ranulphi Higden*, ed. J. R. Lumby, R. S., VII, London, 1865.
- Tupper, Frederick, *The Riddles of the Exeter Book*, New York, 1910.
- Udal, John S., *Dorsetshire Folklore*, Hertford, 1922.
- The Vices and Virtues*, ed. Ferdinand Holthausen, E.E.T.S.
- Vincentius Bellovacensis, *Speculum Naturale*, ed. Hermann Varnhagen, Erlangne, 1893.
- Vincentius Bellovacensis, *Speculum Historiale*, ed. Hermann Varnhagen, Erlangne, 1893.
- Vising, Johan, *Anglo-Norman Language and Literature*, London, 1923.

- Vitry, Jacques de, *Exempla, or Illustrative Stories from the Sermones Vulgares*, ed. T. F. Crane, London, 1890.
- Waddell, Helen, *Wandering Scholars*, London, 1927.
- Walther, H., *Das Streitgedicht in der lat. Literatur des Mittelalters, Quellen und Untersuchungen*, V, 1920.
- Warne, C. S., *Ancient Dorset*, Bournemouth, 1872.
- Warnke, Karl, *Die Lais der Marie de France*, Halle, 1898.
- Warnke, Karl, *Die Fabeln der Marie de France*, Halle, 1898.
- Warton, Thomas, *The History of English Poetry*, ed. Richard Price, I, London, 1840.
- Watts, Caroline, *Marie de France (Seven of her Lays)*, London, 1901.
- Wells, J. E., *Accent Marks in MS. Jesus College Oxford 29, Modern Language Notes*, XXV, 1910.
- Wells, J. E., *Accidence in the Owl and the Nightingale*, *Anglia* XXXIII, 1910.
- Wells, J. E., *Manual of Writings in Middle English*, New Haven, 1916.
- Wells, J. E., *Spelling in the Owl and the Nightingale*, *Modern Language Notes*, XXVI, 1911.
- Weston, J., *The Chief Middle English Poets*, Boston, 1914.
- White, Gilbert, *Natural History and Antiquities of Selborne*, London, 1853.
- William of Newburgh, *Historia Rerum Anglicarum*, ed. Richard Howlett, R. S., London, 1884.
- Willson, Thos. B., *History of the Church and State in Norway from the 10th to the 16th Century*, London, 1903.
- Wirecker, Nigel, *Speculum Stultorum*, ed. Thos. Wright, in *Anglo-Latin Satirical Poets*, R. S., London, 1872.
- Wright, Thomas, *A Selection of Latin Stories from MSS. of the 13th and 14th Centuries*, Printed for the Percy Society, London, 1842.
- Wright, Thomas, *Biographia Britannica Literaria*, Anglo-Norman Period, London, 1846.
- Wright, Thomas, *Early English Poetry, Ballads, and Popular Literature of the Middle Ages*, Percy Society, XI, London, 1843.
- Wright, Thomas, *Essays on Subjects Connected with the Literature, Popular Superstitions and History of England in the Middle Ages*, London, 1846.
- Wright, Thomas, *Political Songs of England*, for the Camden Society, 1839.
- Wright, Thomas, *Popular Treatises on Science Written During the Middle Ages*, London, 1841.
- Wright, Thomas, *Reliquae Antiquae*, I-II, London, 1841-3.
- Wright, Thomas, *St. Patrick's Purgatory*, London, 1844.
- Wülcker, Richard, *Paul und Braune Beiträge*, I, 69.
- The Year's Work in English Studies*, III, 35, 1922.

